

Exhibit B

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

Coordinated Proceeding) JCCP No. 4674
Special Title (Rule 3.550))
)
LAOSD ASBESTOS CASES)

LINDA ZIMMERMAN,)
) Case No. BC720153

Plaintiff,)

vs.)

AUTOZONE, INC., et al.,) (Pages 1 - 137)

Defendants.)

VOLUME II

TELEPHONIC DEPOSITION OF

ANDREAS SALDIVAR

THURSDAY, MARCH 19, 2020

Reported by: IRENE NAKAMURA, RPR, CLR
California CSR 9478, Hawaii CSR 496
Nevada CSR 893, Washington CCR 3177

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<p style="text-align: right;">Page 2</p> <p>1 SUPERIOR COURT OF THE STATE OF CALIFORNIA 2 FOR THE COUNTY OF LOS ANGELES 3 4 Coordinated Proceeding) JCCP No. 4674 Special Title (Rule 3.550)) 5) 6 LAOSD ASBESTOS CASES)) 7 LINDA ZIMMERMAN,)) Case No. BC720153 8) Plaintiff,) 9) vs.) 10) AUTOZONE, INC., et al.,) 11) Defendants.) 12) 13 14 15 VOLUME II 16 17 18 Telephonic Deposition of ANDREAS SALDIVAR, taken 19 on behalf of Plaintiff, commencing at 8:02 a.m. PST, 20 Thursday, March 19, 2020, before IRENE NAKAMURA, Certified 21 Shorthand Reporter for the State of California No. 9478, 22 RPR, CLR, Hawaii CSR No. 496, Nevada CSR No. 893, 23 Washington CCR No. 3177. 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 TELEPHONIC APPEARANCES (continued): 2 3 For Defendant CHANEL INC.: 4 MANNING GROSS + MASSENBURG LLP BY: CHRIS O. MASSENBURG, ESQ. 5 14 Wall Street 28th Floor 6 New York, New York 10005 (504) 799-0504 7 cmassenburg@mgmlaw.com 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 3</p> <p>1 TELEPHONIC APPEARANCES: 2 3 For Plaintiff: 4 SIMON GREENSTONE PANATIER BY: CHRIS PANATIER, ESQ. 5 1201 Elm Street Suite 3400 6 Dallas, Texas 75204 (214) 276-7680 7 cpanatier@sgptrial.com 8 9 For Defendants WHITTAKER CLARK & DANIELS INC.: 10 BERKES CRANE ROBINSON & SEAL LLP BY: VIU SPANGLER-KHARE, ESQ. 11 515 South Figueroa Street Suite 1500 12 Los Angeles, California 90071 (213) 955-1150 13 vspanglerkhare@bcrlaw.com 14 15 For Defendants JOHNSON & JOHNSON and JOHNSON & JOHNSON CONSUMER, INC.: 16 17 KING & SPALDING BY: KEVIN HYNES, ESQ. 1185 Avenue of the Americas 18 34th Floor New York, New York 10036 19 (212) 556-2100 khynes@kslaw.com 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 5</p> <p>1 INDEX 2 3 DEPONENT: EXAMINATION PAGE: 4 ANDREAS SALDIVAR 5 BY MR. PANATIER 8 6 BY MR. MASSENBURG 107 7 BY MR. HYNES 108 8 BY MR. PANATIER 124 9 BY MR. HYNES 126 10 BY MR. PANATIER 128 11 12 13 14 INFORMATION TO BE SUPPLIED 15 (None.) 16 17 18 19 QUESTIONS INSTRUCTED NOT TO ANSWER 20 (None.) 21 22 23 24 25</p>

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<p style="text-align: right;">Page 7</p> <p>1 LOS ANGELES, CALIFORNIA;</p> <p>2 THURSDAY, MARCH 19, 2020</p> <p>3 8:02 A.M. PST</p> <p>4 -o0o-</p> <p>5</p> <p>6 MS. SPANGLER-KHARE: Can we have a stipulation</p> <p>7 that an objection by one is an objection by all is and the</p> <p>8 motion to strike?</p> <p>9 MR. PANATIER: Yeah, if you guys actually do it.</p> <p>10 MS. SPANGLER-KHARE: Okay.</p> <p>11 DEPOSITION OFFICER: I am not at the same location</p> <p>12 as the witness.</p> <p>13 Is there any objection to my administering</p> <p>14 the oath remotely?</p> <p>15 MR. PANATIER: No.</p> <p>16</p> <p>17 ANDREAS SALDIVAR,</p> <p>18 called as a deponent and sworn in by</p> <p>19 the deposition officer, was examined</p> <p>20 and testified as follows:</p> <p>21 -o0o-</p> <p>22</p> <p>23 DEPOSITION OFFICER: Mr. Saldivar, do you</p> <p>24 solemnly swear that the testimony you are about to give in</p> <p>25 this matter now pending will be the truth, the whole</p>	<p style="text-align: right;">Page 9</p> <p>1 summer and then issued a report on this fall?</p> <p>2 Do you understand that?</p> <p>3 A. I do.</p> <p>4 Q. Okay. So I kind of want to go back and get our</p> <p>5 chronology.</p> <p>6 So first things first is you issued a</p> <p>7 report -- or the F.D.A. released a report you had done on</p> <p>8 sample D58 in October of 2019; is that accurate?</p> <p>9 A. I think that's when -- I believe that's when</p> <p>10 they released it, yeah.</p> <p>11 Q. Okay. Now, at that time, did they release any</p> <p>12 other of the reports from any other of the sampling that</p> <p>13 you had been working on under that specific contract?</p> <p>14 A. I believe they had released other reports from</p> <p>15 that contract earlier than I -- yeah, I know they had.</p> <p>16 They had released some -- yeah, I believe in the spring</p> <p>17 and maybe a few in the summer.</p> <p>18 Q. So that will help us get our bearing.</p> <p>19 So this contract -- and when we talk about</p> <p>20 this then-current F.D.A. contract, can you just describe</p> <p>21 for me in whatever the simplest terms you can about the</p> <p>22 breadth of that contract in terms of how many total</p> <p>23 samples you were looking at and what you were doing,</p> <p>24 please?</p> <p>25 A. I don't recall the exact total. It's -- it's</p>

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<p style="text-align: right;">Page 10</p> <p>1 around 50 samples. And they send us material blind.</p> <p>2 We perform analysis for them, and then we</p> <p>3 send them our results, and at some point after, they get</p> <p>4 our results; they release them to the public.</p> <p>5 Q. All right. And for these approximately 50</p> <p>6 samples that you looked at blind, over what period of time</p> <p>7 was your lab conducting the analysis of these samples?</p> <p>8 A. Almost over -- almost the entire last calendar</p> <p>9 year.</p> <p>10 Q. Okay. And now that wasn't all your lab was</p> <p>11 doing, but this particular contract took about that long</p> <p>12 to do.</p> <p>13 Is that what you're saying?</p> <p>14 A. They didn't send us stuff all in one go. They</p> <p>15 sent us small batches so we do a small batch; give them</p> <p>16 results, and then sometime later, sometimes weeks,</p> <p>17 sometimes months later, they would send us some more. And</p> <p>18 so, no, this was certainly not all of our lab was doing.</p> <p>19 Q. Okay. Can you describe for me generally how the</p> <p>20 samples would arrive at AMA?</p> <p>21 A. Usually somebody from the F.D.A. would bring</p> <p>22 them over in person to us.</p> <p>23 Q. Okay. And how were they -- how were they</p> <p>24 packaged?</p> <p>25 A. They were -- in -- in vials, in -- sometimes</p>	<p style="text-align: right;">Page 12</p> <p>1 half on the bottle itself, and then wrapped around the</p> <p>2 bottle -- is that the F.D.A.'s doing, the tape?</p> <p>3 A. Yeah, that would be their doing.</p> <p>4 Q. Okay. So then when you would receive them and</p> <p>5 then take the sample, how did you proceed to get the</p> <p>6 powder out of the vial?</p> <p>7 A. Well, you -- first, we logged them into our</p> <p>8 system and then in a hood, we will take and split out --</p> <p>9 take out three aliquots from each vial and not use all of</p> <p>10 the material. And then we will put those into other</p> <p>11 containers, our own containers. And we will do that in a</p> <p>12 hood.</p> <p>13 Q. Okay. So -- so let's say we're dealing with one</p> <p>14 of these vials that have this clear -- it looks like</p> <p>15 Scotch tape around the top.</p> <p>16 Do you just peel that tape off, or do you</p> <p>17 slice it?</p> <p>18 A. You -- I -- that's likely going to be dependent</p> <p>19 on -- on each vial. I'm not sure. I don't know if it was</p> <p>20 peeled off or if it was sliced.</p> <p>21 Q. Okay. Then the bottle's unscrewed and from that</p> <p>22 you pull out from each sample the -- the three individual</p> <p>23 components, what you would call aliquots, which is a</p> <p>24 science word for a sample, of the sample; right?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 11</p> <p>1 clear, sometimes not, but they typically were -- I</p> <p>2 don't -- I'm not sure if any of them were even actually</p> <p>3 clear, but they were in small vials and there would be</p> <p>4 maybe five or ten grams of material in there.</p> <p>5 Q. Right. And were these -- did these vials have</p> <p>6 screw-on caps?</p> <p>7 A. Yes.</p> <p>8 Q. Were they secured in any other way other than</p> <p>9 just being screwed on? Were they taped or adhered in any</p> <p>10 other way?</p> <p>11 A. I think there was -- in our reports, we put</p> <p>12 pictures of the samples of how they were received, and I'm</p> <p>13 not on a computer right now so I can't -- I can't look.</p> <p>14 But I believe that there was tape on them as well.</p> <p>15 Q. Okay. I have some pictures in the reports that</p> <p>16 show, you know, a clear, for instance, sample D58, a</p> <p>17 clear -- looks like glass or a plastic vial with a white</p> <p>18 plastic lid, is that generally how you received them from</p> <p>19 the F.D.A., was that their vials?</p> <p>20 A. Yeah, I believe so. I think some of the -- I</p> <p>21 think -- I think some of the vials were not clear, but</p> <p>22 maybe like translucent, like semi-clear, but if -- that's</p> <p>23 the -- yeah, that is generally how we got them.</p> <p>24 Q. Okay. And it also looks like there's a clear</p> <p>25 tape around the top that -- that is half on the lid and</p>	<p style="text-align: right;">Page 13</p> <p>1 Q. Okay. And you would take three from each one of</p> <p>2 the vials received from F.D.A.; right?</p> <p>3 A. Yes.</p> <p>4 Q. So, for instance, for D58, which by the way, as</p> <p>5 of now, I know they were sent to you blind.</p> <p>6 But did you gain an understanding as to</p> <p>7 what the source of the powder was for D58?</p> <p>8 A. Yes.</p> <p>9 Q. What is that?</p> <p>10 A. It was a Johnson & Johnson material.</p> <p>11 Q. Okay. Do you understand that was a baby powder?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. So for D58, for instance, you had three</p> <p>14 aliquots that you label as -- you give them an AMA sample,</p> <p>15 I mean; correct?</p> <p>16 A. Correct.</p> <p>17 Q. And in this case, the sample I.D. for D58 as</p> <p>18 received by the F.D.A. was 308006-6 and then you had 6A</p> <p>19 and 6B, as well, and those would represent the three</p> <p>20 aliquots; correct?</p> <p>21 A. Yes.</p> <p>22 Q. All right. How many different technicians at</p> <p>23 AMA were working on the contract for the F.D.A., this</p> <p>24 specific contract that occupied most of last year?</p> <p>25 A. I don't recall the total number of people, but</p>

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<p style="text-align: right;">Page 14</p> <p>1 it would be -- it probably was on the order of -- people 2 who actually handled the material from login to finish, it 3 probably would be somewhere in the order of six, maybe 4 seven total. 5 Q. Okay. 6 A. And not -- and that would be across the entire 7 contract. 8 Q. Sure. 9 And for purposes of the T.E.M. analysis 10 that was done under this contract, how many different 11 T.E.M. analysts worked on this F.D.A. contract? 12 A. It's three or -- and if you count quality 13 control, it was probably four. 14 Q. Okay. Were all of these people employed already 15 when this contract began at AMA? 16 A. Yes. 17 Q. Okay. And were all of these people -- had all 18 of these people, these T.E.M. analysts, been trained 19 either before arriving at AMA or at AMA? 20 A. They were all trained at AMA. 21 Q. Okay. Were you the one that trained them? 22 A. Yes. Me, among other people, as well, but yeah, 23 I was one of the primary trainers for all of them. 24 Q. All right. And I take it that if they are 25 employed as a T.E.M. analyst at AMA, and they are allowed</p>	<p style="text-align: right;">Page 16</p> <p>1 possibility of -- and there's a higher percentage of 2 replicate versus duplicate QC, but there is a possibility 3 of both situations, same analysts and different analysts. 4 Q. And if -- if it's the same analysts, do they 5 know that they already analyzed the sample once or is that 6 blind to them? 7 A. It's -- it is somewhat blind, but they can 8 easily figure it out. So I would say -- in most cases 9 they do know. They are looking at completely different 10 preparation from the original one. 11 Q. Gotcha. Okay. So in order for -- so, for 12 instance, for the samples, the two aliquots that were 13 found to be positive for chrysotile for sample D58, in 14 order for those results to be reported as final, would the 15 QC on those two samples have to verify the chrysotile yet 16 again? 17 A. That -- there would be an assumption that -- 18 that -- that there was an actual -- and I don't recall 19 whether this is true or not, because the QC is assigned 20 for batches of samples. 21 So if you -- let's say you get a batch of 22 20 samples in -- it's going to -- and you have to have a 23 certain percentage of QC, QC is not going to be assigned 24 to every single sample. 25 It's going to look through there and be,</p>
<p style="text-align: right;">Page 15</p> <p>1 to work on this contract, that you believe them to be 2 sufficiently trained, skilled and able to do their job; is 3 that correct? 4 A. That's correct. 5 Q. And even now, after the reports have come out, 6 the final reports have been made public, I take it you 7 still hold that same opinion that your -- your technicians 8 were trained, skilled, and able to do their jobs. 9 Is that fair? 10 A. That's correct, yes. 11 Q. Okay. And now, you also said that QC was run, 12 a quality control. And would that have been run by a 13 different technician for any given sample? So, for 14 instance, if you had an analyst named Bob, and Bob did 15 sample D58, then would the QC have been done by Bob or 16 somebody else? 17 A. It's possible that it would be done by Bob and 18 possibly done by someone else. If the -- our laboratory 19 information management system, Lim system, or our database 20 randomly assigns quality control, what we call replicate 21 QC means the sample has to be analyzed by a different 22 analyst. 23 If it says duplicate QC, then the sample 24 has to be reanalyzed by the same analyst. So whatever is 25 assigned, for each set of samples, you have the</p>	<p style="text-align: right;">Page 17</p> <p>1 okay, in order to maintain our proper QC percentage, I'm 2 going to assign two samples, and this is the Lim system 3 doing its random thing. So -- so many of the samples are 4 not going to have quality control assigned to them. 5 Specifically to that sample, but some will. 6 Q. Yeah, and I probably should have asked that 7 first, which is -- and I do understand that QC is -- is 8 not usually done in every sample. 9 It's done on an -- on enough samples to 10 where you have a level of confidence that the samples were 11 run correctly. 12 Is that fair? 13 A. Correct. 14 Q. All right. Let me see here. What was the total 15 contract value with the F.D.A. for this 50-or-so samples 16 to AMA? 17 A. It was -- I don't know the actual number, but we 18 can probably figure it out here, because it was 500 per 19 aliquot. 20 So -- so 50 samples times 3 aliquots each, 21 so that's 150 times 500 dollars, and then there was a few 22 other sort of, like, reporting generation fees and things 23 like that. So -- it's -- I'm trying to figure that out in 24 my head what the total would be, but -- 25 Q. Well, 50 times three is --</p>

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<p style="text-align: right;">Page 18</p> <p>1 A. Somewhere around the order, I would say it's 2 between -- it's around 80,000 dollars. 3 Q. Yeah. That's about what I was going to come in 4 at. 5 A. Okay. 6 Q. And the methodology you used was your standard 7 ELAP method that you've been using for a number of years; 8 is that right? 9 A. It's a modified ELAP method, but it's what we've 10 been using for F.D.A. and for other talent samples for 11 quite some time. 12 Q. It -- has it changed at all from going all the 13 way back to 2015 with the sampling you did -- with the 14 analysis you did with Colgate-Palmolive? 15 A. It has, yeah. 16 Q. In what way? 17 A. It changed in -- now, we -- we count everything. 18 Everything that we see. So if I see -- if I saw a piece 19 of an anthophyllite that was a cube, and it was one to 20 one, I would count it. 21 Q. Okay. Would you -- when you said you would 22 count it, you would note it on the bench sheet. 23 Is that what you mean? 24 A. Yeah, I would. I would measure its length and 25 its width. I would get the fraction on it. I would get</p>	<p style="text-align: right;">Page 20</p> <p>1 Q. That's fine. That's fine. Because we have the 2 reports. The exact number would be in the reports. I 3 just want to get your ballpark. 4 A. Yeah. 5 Q. But backing up a little bit, and we're going to 6 go back into these reports here in a second, just my way 7 of housekeeping. 8 When I deposed you on June 21st, 2019, as 9 you're sitting here today, can you think of any of the 10 opinions that you rendered there or any statements you 11 rendered there that were out of line with what you believe 12 now or have any of your statements or opinions changed, 13 any material statements or opinion? 14 A. I -- I don't believe so, no. 15 Q. Okay. Now, during the pendency of this -- of 16 this work with F.D.A., I remember that when I talked to 17 you in June, I had asked you about work with F.D.A., and 18 you had mentioned that you were under a current contract 19 then. 20 That was this contract that you and I were 21 talking about; correct? 22 A. Yes. 23 Q. Okay. And during the pendency of that work, 24 did you have any conversations about that work with any 25 representatives, whether it be an attorney or an employee</p>
<p style="text-align: right;">Page 19</p> <p>1 chemistry on it. And I would put it in. I would just say 2 it's -- I would -- I would say it's anthophyllite. I 3 wouldn't determine -- I mean, a one-to-one cube everybody 4 knows -- there's no dispute there that that's not 5 asbestos. 6 But regardless of its dimensions, 7 regardless of its shape, if it's amphibole, we're going 8 to -- we're going to count it. 9 Q. Okay. And then you would, of course, note 10 the -- how it's categorized, whether it was fiber, a 11 matrix cluster, a bundle or -- I don't know what you would 12 call that. Junk? 13 A. You would call that -- you would -- you would 14 call that a particle. 15 Q. Okay. Okay. Now, with regard to this contract 16 as a whole, 50 or so samples, can you just give me a 17 ballpark? I doubt you have all 50 reports in front of 18 you. 19 Can you give me a ballpark of how many 20 positive total samples you found at your lab, found out of 21 that group? 22 A. It's -- I believe -- I would say less than ten. 23 Q. All right. 24 A. I don't recall. I don't have any of the reports 25 in front of me, actually.</p>	<p style="text-align: right;">Page 21</p> <p>1 or anybody for any talc company or company that sells talc 2 products about that testing? 3 A. Only -- and I was asked many, many times about 4 this stuff when people would see me. But it would be -- I 5 would give generalizations about it. So, yeah, I have 6 been asked many, many times by many people about it. And 7 a good chunk of this contract is -- is confidential, and 8 the F.D.A. reminds me that it's confidential, but I can -- 9 I can, you know, they release stuff, and I can speak in 10 general. 11 So people have asked me about it over and 12 over and over again, yeah. 13 Q. And aside from generalities, I'm looking at talc 14 for the F.D.A. I'm doing the typical analysis I do. 15 Do you specifically discuss any of the 16 results before the reports were released with anybody? 17 A. No. 18 Q. Okay. 19 MR. MASSENBURG: This was asked and answered in 20 the prior deposition that Mr. Saldivar provided pursuant 21 to your notice in both Welch and Zimmerman cases. 22 BY MR. PANATIER: 23 Q. To be clear, Mr. Andreas, I am asking you 24 whether or not you discussed the results of any of the 25 testing you did for the F.D.A. which continued beyond</p>

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<p style="text-align: right;">Page 22</p> <p>1 June, did it not?</p> <p>2 A. It did, yes.</p> <p>3 Q. Okay. And so I'm just wrapping it all together.</p> <p>4 During the entire pendency of this contract with the</p> <p>5 F.D.A. and testing talc for asbestos, before the results</p> <p>6 were made public, you did not discuss the results with</p> <p>7 anybody; correct?</p> <p>8 A. No. I did not. And honestly, there's nothing</p> <p>9 for us to discuss.</p> <p>10 The way we find out what that material is</p> <p>11 is the same way you do, is one day -- they never call us</p> <p>12 and tell us, oh, what you just analyzed is this. We have</p> <p>13 to go look at their public release of it.</p> <p>14 So what they send us is blind, and we give</p> <p>15 them the results, and what we -- and the way we find out</p> <p>16 what we just looked at is -- is when they release it</p> <p>17 publicly and then we know, we just analyzed that.</p> <p>18 Q. So even if you had wanted to, and I'm not saying</p> <p>19 you would ever do this.</p> <p>20 Even if you had wanted to tell the results</p> <p>21 to somebody, the best you could have done was to say,</p> <p>22 well, some were negative; some were positive. I don't</p> <p>23 know whose talc I was testing.</p> <p>24 Is that fair?</p> <p>25 A. That's correct.</p>	<p style="text-align: right;">Page 24</p> <p>1 A. A lot of people have.</p> <p>2 Q. All right.</p> <p>3 A. Mostly reporters. A lot of reporters. And</p> <p>4 mostly reporters. I even had a -- somebody from -- a</p> <p>5 House -- a House committee was -- contacted me about it.</p> <p>6 And so.</p> <p>7 Q. Okay.</p> <p>8 A. And pretty much gave them the same answer that</p> <p>9 you have to contact the F.D.A.</p> <p>10 Q. All right. And that -- and your report, so I</p> <p>11 have -- I have the report that was issued on October 11,</p> <p>12 and then I have the final report -- you know, quote</p> <p>13 unquote "final report," that came out, I think, March 9th,</p> <p>14 which is on the day that the F.D.A. released all of the</p> <p>15 reports.</p> <p>16 Is that accurate, to your recollection?</p> <p>17 A. I wasn't sure of their final release. They</p> <p>18 had -- they had most of the stuff from us well before</p> <p>19 March 9th --</p> <p>20 Q. Okay.</p> <p>21 A. They had all of -- I think it's not most. They</p> <p>22 had all of the stuff from us before March 9th.</p> <p>23 Q. When was your testing completed internally on</p> <p>24 all of the samples regarding the F.D.A. contract?</p> <p>25 A. In December, I believe.</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. All right. Now, once the reports begin to be</p> <p>2 made public by the F.D.A., did you -- for instance, with</p> <p>3 the -- with the D58 report, which that report, I believe,</p> <p>4 was dated August -- sorry. October 3rd, and then it was</p> <p>5 revised October 11th, did you get any phone calls or have</p> <p>6 any contact with anyone from J&J once that report came</p> <p>7 out?</p> <p>8 A. No.</p> <p>9 Q. Has anybody from Johnson & Johnson contacted you</p> <p>10 to this date about that report?</p> <p>11 A. No, they have not.</p> <p>12 Q. Okay. Has Alan Segrave contacted you about that</p> <p>13 report?</p> <p>14 A. No, he has not.</p> <p>15 Q. Has Matthew Sanchez or anybody from R.J. Lee</p> <p>16 contacted you about that report?</p> <p>17 A. No.</p> <p>18 Q. Okay. So now I'm going to make this an even</p> <p>19 broader question, which is has -- has any -- has anybody</p> <p>20 reached out to talk to you about this report other than --</p> <p>21 and that's excluding because we're going to talk about it,</p> <p>22 that's excluding E-mail I sent you in, I think it was,</p> <p>23 early February?</p> <p>24 A. Yes, they have.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 25</p> <p>1 Q. All right. And so even though, for instance,</p> <p>2 the Johnson & Johnson report was made public by the F.D.A.</p> <p>3 in October, there were still samples that you were still</p> <p>4 working on at that time. Fair?</p> <p>5 A. Yes.</p> <p>6 Q. Was there -- were all of your reports for all</p> <p>7 of the sampling under the F.D.A. contract completed by</p> <p>8 December, or was it January?</p> <p>9 A. I -- I would have to look. It was -- it's one</p> <p>10 or the other. It's either December or January. It was --</p> <p>11 I would have -- I would actually have to see the report to</p> <p>12 see when we -- when we did the last analysis on them.</p> <p>13 Q. Okay.</p> <p>14 A. It was right around there.</p> <p>15 Q. But it was sometime between December and</p> <p>16 January?</p> <p>17 A. Correct.</p> <p>18 Q. All right. Were there ever any substantive</p> <p>19 changes made to your report with regards to sample D58,</p> <p>20 the Johnson & Johnson sample?</p> <p>21 A. I don't believe I can answer that question.</p> <p>22 Q. Explain that, then.</p> <p>23 A. Because the F.D.A. has specifically told me not</p> <p>24 to -- their exact quote was "We don't want you answering</p> <p>25 any questions about that."</p>

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<p style="text-align: right;">Page 26</p> <p>1 Q. About whether or not there were -- there were</p> <p>2 any substantive changes made?</p> <p>3 A. About specifics regarding any of their -- their</p> <p>4 samples. And they reminded me of that not that long ago.</p> <p>5 Q. Okay. So can -- let me ask you this: Have</p> <p>6 you -- have you contacted the F.D.A. and told them that</p> <p>7 you expect to be deposed on these?</p> <p>8 A. No, I have not. I mean, not recently. They --</p> <p>9 I've -- they know -- they know my scientific contact.</p> <p>10 There was my main contact. There -- I have told him, I</p> <p>11 said people -- you know, people are going to ask me</p> <p>12 questions about this, and some will be in depositions and</p> <p>13 then -- and some will be in meetings and things like that.</p> <p>14 And he's the one who told me, "Well, we don't want you</p> <p>15 answering any questions about that."</p> <p>16 Q. Now, is that John Gaspar?</p> <p>17 A. No.</p> <p>18 Q. Okay. Who is it?</p> <p>19 A. Steve Wolfgang.</p> <p>20 MR. MASSENBURG: No, no, no. Let me just say --</p> <p>21 this is Chris Massenburg.</p> <p>22 Andreas, I don't know to the extent you</p> <p>23 know whether or not your contact at the F.D.A. who you</p> <p>24 spoke to specifically are part of that same privilege that</p> <p>25 counsel could seek that information from F.D.A.</p>	<p style="text-align: right;">Page 28</p> <p>1 counsel for Chanel, Mr. Massenburg, represented that he</p> <p>2 believed that some of this was subject to a quote-unquote</p> <p>3 "privilege."</p> <p>4 I think that concept is quite a stretch.</p> <p>5 I don't think there's any privilege here.</p> <p>6 The issue is confidentiality or not. And this person at</p> <p>7 the F.D.A., Mr. Saldivar, Mary somebody.</p> <p>8 A. I'm not sure. I'm not sure if it's Mary, but I</p> <p>9 can't remember her name.</p> <p>10 Q. We will call her Mary for the purpose of the</p> <p>11 deposition as a monitor, but this person at the F.D.A.</p> <p>12 that you were told to funnel inquiries through, we will</p> <p>13 obviously request that information to be produced to the</p> <p>14 extent that we are not able to get answers in this</p> <p>15 deposition because you believe you are under some sort of</p> <p>16 confidentiality and not talk about certain things.</p> <p>17 Hopefully, we can talk about what is out</p> <p>18 there in the public and get by it, but to the extent that</p> <p>19 there is any matters you can't talk about, we would ask</p> <p>20 for that information so that we can go through the</p> <p>21 appropriate channels, as you have laid them out for us.</p> <p>22 Okay?</p> <p>23 A. Yeah, but I could -- I could -- I could later on</p> <p>24 today, if I hadn't already done it, I could E-mail you</p> <p>25 that contact information. I don't know if I gave it to</p>
<p style="text-align: right;">Page 27</p> <p>1 separately.</p> <p>2 If it's not confidential and you're certain</p> <p>3 it's not, who your contact is, then feel free to disclose</p> <p>4 it.</p> <p>5 At least I wanted to make the objection and</p> <p>6 inform you that if you believe for any reason or are</p> <p>7 unsure for any reason, as to whether or not your contacts</p> <p>8 there or primary contact is confidential in any way, or</p> <p>9 F.D.A. required or request that be kept confidential,</p> <p>10 please do not disclose that now, and we can take that for</p> <p>11 the Court at another time.</p> <p>12 THE DEPONENT: They haven't ever specifically</p> <p>13 told me that what you just said about their, you know --</p> <p>14 their -- their names. I mean, their names are all over</p> <p>15 the reports that they released.</p> <p>16 What they have told me is when I get</p> <p>17 inquiries about any of their work, they gave me an --</p> <p>18 and I can't remember her name right now or her contact</p> <p>19 information, but as a specific person -- and like I said,</p> <p>20 I can't remember her name. It was Mary something, I</p> <p>21 believe. I might be wrong. That they wanted me to -- if</p> <p>22 I get a question about it, give them this information, and</p> <p>23 they wanted to channel it all through her.</p> <p>24 BY MR. PANATIER:</p> <p>25 Q. Okay. So first of all, just for the record,</p>	<p style="text-align: right;">Page 29</p> <p>1 you or not.</p> <p>2 Q. Okay. Well, why don't you do this: Later on</p> <p>3 today, why don't you E-mail that contact information to me</p> <p>4 and Mr. Massenburg so he has it.</p> <p>5 A. Okay.</p> <p>6 Q. All right. So moving along?</p> <p>7 MR. MASSENBURG: Andreas, why don't we do this,</p> <p>8 contrary to counsel's -- Mr. Panatier's belief that we</p> <p>9 know you openly -- when litigation is pending against</p> <p>10 Chanel, and you are a testifying expert and had already</p> <p>11 testified on behalf of Chanel in this case and then the</p> <p>12 "Welch" case pursuant to counsel's notice. We disagree on</p> <p>13 that point, and it may be taken up at a later date.</p> <p>14 As it stands right now, if you could in</p> <p>15 this case, since -- "Zimmerman" is the case this is</p> <p>16 noticed for, and you are a testifying expert on behalf</p> <p>17 of Chanel, if there's any documents or contacts or</p> <p>18 information to share, that you need to E-mail -- if you</p> <p>19 will E-mail that to me only.</p> <p>20 THE DEPONENT: Okay.</p> <p>21 MR. MASSENBURG: And I will get that to</p> <p>22 Mr. Panatier or his office.</p> <p>23 If there are objections to anything -- I</p> <p>24 don't anticipate there will be -- or any objections, I</p> <p>25 will notify counsel of those objections and the contents</p>

<p style="text-align: right;">Page 30</p> <p>1 of the document so we can take that up with the Court.</p> <p>2 Like I said, I don't think that's going to</p> <p>3 happen. But just so we're clear, I don't want, in the</p> <p>4 "Zimmerman" case, E-mailing Mr. Panatier directly as he</p> <p>5 had sought your -- you know, inquired as to several</p> <p>6 matters by E-mail without my presence while this case was</p> <p>7 pending. But like he said, he's going to take those</p> <p>8 issues up later. So thank you.</p> <p>9 MR. PANATIER: I will --</p> <p>10 THE DEPONENT: I will send it to you later</p> <p>11 today. And then -- and then you can send it to Chris.</p> <p>12 MR. PANATIER: That's -- that's acceptable.</p> <p>13 BY MR. PANATIER:</p> <p>14 Q. All right. So going back to what we -- what is</p> <p>15 out there in the public and if we go over to something</p> <p>16 that is a communication you believe is confidential, just</p> <p>17 let me know.</p> <p>18 With regard to the work you did, has anyone</p> <p>19 come to inspect the AMA lab in the -- in the wake of these</p> <p>20 results with specific -- specific attention to these</p> <p>21 results?</p> <p>22 In other words, has anyone come to the --</p> <p>23 let me strike that.</p> <p>24 Has anyone inspected AMA labs since these</p> <p>25 results have been made public?</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. Okay. Was there -- were there any findings of</p> <p>2 lab contamination with asbestos?</p> <p>3 A. No.</p> <p>4 Q. Okay. And were you given a paper copy of this</p> <p>5 report or an electronic copy?</p> <p>6 A. Still waiting for it.</p> <p>7 Q. Okay. But at the time, I take it, since you've</p> <p>8 said that these issues did not come up where you -- where</p> <p>9 you -- were the results generally communicated to you in</p> <p>10 terms of --</p> <p>11 A. Yes. The -- the auditors did verbally tell us</p> <p>12 some things, and they have asked for some things from us</p> <p>13 since then. They asked that we would -- they asked that</p> <p>14 with stuff specifically related to their samples that</p> <p>15 maybe they would ask for an SOP to be clarified or</p> <p>16 something along that.</p> <p>17 They didn't really ask for any -- us to</p> <p>18 change anything they were doing and sometimes they wanted</p> <p>19 things to -- to have more details. But there was -- but</p> <p>20 that's about the extent of it.</p> <p>21 Q. Okay. And has your lab, in its inspections with</p> <p>22 NABLab which or E-Lab or A.I.H.A. -- and let's just say</p> <p>23 the last five years, okay, during the pendency of when you</p> <p>24 had been serving as an expert witness.</p> <p>25 Within the last five years, have you --</p>
<p style="text-align: right;">Page 31</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And what type of inspection was that?</p> <p>3 A. It was -- like, an audit, a laboratory audit of</p> <p>4 our practices and our procedures.</p> <p>5 Q. And who conducted that audit?</p> <p>6 A. The F.D.A.</p> <p>7 Q. Okay. They conducted that audit after you had</p> <p>8 done your -- your final reports?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. So this would have been sometime in</p> <p>11 either late December or January or February?</p> <p>12 A. It was in January.</p> <p>13 Q. Okay. And was this a -- a routine audit, or was</p> <p>14 this a sort of special order?</p> <p>15 A. It -- it -- I would not say it's routine. But</p> <p>16 every contract that -- that you get from them, there is a</p> <p>17 thing in there that they can audit you at any time that</p> <p>18 they choose, any time that they want. And so if it was</p> <p>19 within the contract, and -- but it wasn't something like</p> <p>20 our -- our math lab or A.I.H.A. or ELAP audits, which are</p> <p>21 routine, and they come at a specific, you know, every two</p> <p>22 years type of thing. This was not an audit like that.</p> <p>23 Q. Okay. And were there any -- were there any</p> <p>24 major deficiencies found?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 33</p> <p>1 has -- have -- has your lab failed any of its inspections?</p> <p>2 A. No. We have not failed an inspection. Every</p> <p>3 single inspection -- well, not every single one, because</p> <p>4 there's been a few that we have -- there's a few that we</p> <p>5 have where there's no deficiencies found. Sometimes</p> <p>6 there's suggestions. But the last NABLab when I think</p> <p>7 there was two deficiencies found or something like that,</p> <p>8 but --</p> <p>9 Q. Okay.</p> <p>10 A. In general, we've done really well on</p> <p>11 inspections.</p> <p>12 Q. Right. And from lab to lab, you know, do they</p> <p>13 inspect -- it's my understanding that NABLab or E-Lab or</p> <p>14 A.I.H.A., they are looking at hundreds and hundreds of</p> <p>15 things, of items; is that correct?</p> <p>16 A. They are, yes.</p> <p>17 Q. And so from time to time they might find a</p> <p>18 deficiency here or there, they notify you of it and then</p> <p>19 you are supposed to correct it; is that correct?</p> <p>20 A. That's correct.</p> <p>21 Q. All right. Has any of those results -- just in</p> <p>22 the last five years, have any of those audits resulted in</p> <p>23 a deficiency that says AMA has an asbestos contamination</p> <p>24 problem?</p> <p>25 A. No.</p>

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<p style="text-align: right;">Page 34</p> <p>1 Q. Alan Segrave has inspected your lab; isn't that 2 true? 3 A. That's correct. 4 Q. Okay. And when he inspected your lab, did 5 Mr. Segrave -- when was that, that he inspected your lab? 6 A. It was -- he was -- the last May or June. 7 Q. Okay. Had he ever inspected a lab before that? 8 A. No. 9 Q. Has he done it since? 10 A. No. 11 Q. So just one time? 12 A. Correct. 13 Q. Okay. Did Mr. Segrave note any material 14 deficiencies with your lab? 15 MR. MASSENBURG: Andreas, this is Massenburg. I 16 am sorry. Let me interject. I will only represent to you 17 that Mr. Segrave testified in the Zimmerman case on behalf 18 of Chanel already when he was asked questions and when 19 asked questions about his inspection of your lab as a part 20 of his audit inspection duties, he indicated that the 21 results were confidential, and he could not disclose them. 22 I don't know personally or professionally 23 whether that same standard applies to you as to the 24 results, or it just applies to the inspector, Mr. Segrave. 25 So I'm not objecting.</p>	<p style="text-align: right;">Page 36</p> <p>1 A. Okay. 2 Q. Big picture deals. 3 A. Right. We had no deficiencies like that. 4 Q. Okay. 5 A. And just -- 6 (Speaking simultaneously.) 7 A. And that's correct. And just to be clear on -- 8 I can discuss my NABLab and E-Lab and A.I.H.A. inspection 9 results with anyone. 10 What I can't do with that data is, I can't 11 use it as sort of like an advertisement thing. So if I 12 had a "no" deficiency inspection, I can't then go out and 13 say, "Hey, customers, look at me; I'm great." I can't do 14 that. 15 Q. Okay. Understood. 16 So for purposes of Mr. Segrave's 17 inspection, did he note -- now I'm going to go to 18 nonmaterial things. 19 Did he note nonmaterial deficiencies any 20 smaller -- smaller deficiencies? 21 A. Yeah, I believe it were two. And only one of 22 them I recall was that on our T.E.M. AHERA report, which 23 is a type of air sample analysis. We did not have a 24 statement of uncertainty on our report. 25 Q. What does that mean?</p>
<p style="text-align: right;">Page 35</p> <p>1 I'm only advising that that is what he 2 said. So if you have an understanding or belief that the 3 results are somehow confidential or privileged, then let 4 us know. If not, then please answer as you see fit. 5 THE DEPONENT: Okay. 6 MR. PANATIER: I would just object that that is 7 not an objection. It's an attempt to coach the witness. 8 There's no such privilege that exists. 9 To the extent that there's any 10 confidentiality. It's held by the lab, and everybody 11 knows that. 12 But, sir, if you can answer the question. 13 MR. MASSENBURG: I'm not going to continue to 14 argue with you on this. I'm sorry. 15 THE DEPONENT: What do you mean by "material 16 deficiency"? 17 BY MR. PANATIER: 18 Q. Yeah. Like, so for instance, some people might 19 say, "Oh, there was a manual that was supposed to be in a 20 certain area." I wouldn't consider that a material 21 deficiency, do you? 22 A. No. 23 Q. Okay. A material deficiency would be something 24 like they -- they're not calibrating their equipment 25 correctly. There is an emanation problem?</p>	<p style="text-align: right;">Page 37</p> <p>1 A. It's a -- it's -- an uncertainty is -- you give 2 somebody a result, and you want them to be able to know, 3 okay, what are the upper and lower confidence limits of 4 that report. Like -- what would -- if you gave somebody a 5 result of five, what would be the -- is five the definite, 6 you know, answer? Or is there a range surrounding that? 7 And so you have to give a statement of -- 8 of like, not specific, like, to that result, but -- but 9 what the general range of uncertainty is regarding 10 results. 11 BY MR. PANATIER: 12 Q. Okay. Has anybody, other than the -- so just to 13 clarify: No one other than the F.D.A. has conducted an 14 inspection of your lab in the wake of the public release 15 of these results; correct? 16 A. With regards to what you're talking about, I 17 believe we had a Maryland drinking water inspection for 18 lead in water analysis. 19 Q. Okay. Okay. And I appreciate that. And I am 20 just focused on your asbestos work. 21 A. Okay. 22 Q. Has anyone from Bureau Veritas or R.J. Lee Group 23 come to inspect any of the -- your grid preparations with 24 regard to this F.D.A. contract work you did? 25 A. No.</p>

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<p style="text-align: right;">Page 38</p> <p>1 Q. Has anybody from Johnson & Johnson visited your 2 lab in the wake of these reports? 3 A. No. 4 Q. Okay. Have you reviewed Bureau Veritas's 5 examination of its aliquots of the same samples you looked 6 at? 7 A. No. 8 Q. Have you -- same question for R.J. Lee Group, 9 have you looked at their reports regarding the same 10 samples you looked at? 11 A. No. 12 Q. With specific focus on sample D58, the J&J 13 sample, you have three aliquots of that, and you -- I 14 believe your report says, you ran three lab blanks for 15 those three aliquots; is that correct? 16 A. The -- the lab blanks would have been for that 17 batch of samples. There might have been one -- I don't 18 believe there was one specific to that sampler. It would 19 have been -- because that sample was not submitted by 20 itself. It was submitted in a batch. 21 Q. Right. So you would have had lab blanks there 22 that would have been applicable to an entire batch of 23 these samples; is that right? 24 A. That's correct. 25 Q. And your lab blanks always came up negative;</p>	<p style="text-align: right;">Page 40</p> <p>1 know, a set of blanks with a batch. 2 A. Uh-huh. 3 Q. How many total -- how many total blanks did AMA 4 run so far -- you don't have to tell me the exact number, 5 because we can get that from your report. 6 But just ballpark, how many total blanks 7 did AMA run in the course of its analysis on the 50 or so 8 samples that was for the F.D.A.? 9 A. There would have been something along the lines 10 of -- I'm going to count them up in my head and 11 approximate this, but -- it's going to be somewhere in the 12 order of 50-plus blanks. 13 Q. Okay. 14 A. Of various types of blanks. 15 Q. Were they all non-detect? 16 A. Yes. 17 Q. Okay. 18 A. All the ones -- all the ones that we analyzed 19 would be non-detect. If you have a batch of samples 20 that -- that are all non-detect, all of your results are 21 non-detect, you don't always analyze the blanks associated 22 with it. There are certain types of blanks. There are 23 filter preparation blanks that if you have a detect with 24 the with this type of material, you analyze that blank. 25 If that blank ends in -- and there's a</p>
<p style="text-align: right;">Page 39</p> <p>1 correct? 2 A. Correct. 3 Q. Or non-detect would be a better term. 4 Is that fair? 5 A. Yes. 6 Q. Okay. And your -- you have three lab blanks for 7 this batch. 8 And my understanding is that you analyzed 9 those two times each? 10 A. No. You analyzed the lab blank once. But 11 you're analyzing more than one blank with the batch. 12 Q. Okay. I understand. 13 Is it your lab's typical procedure to do 14 three lab blanks with any batch, that is, analyzes for -- 15 A. No. It depends on the size of the batch. 16 Q. Okay. Explain that. 17 A. You can -- you could have less if -- if I got a 18 batch of samples and it was, like, two samples. And 19 there's only going to be one blank associated with those 20 two samples. 21 If I got a batch of samples and it was, 22 like, 60 samples, there's going to be many, many more 23 blanks associated with that than there would be with the 24 small set. 25 Q. Let me ask you this: You said you prepped, you</p>	<p style="text-align: right;">Page 41</p> <p>1 numbering system for it -- if that blank ends in 5 or 0, 2 regardless of whether you had to detect or not, you're 3 going to analyze that blank. 4 But if you had a non-detect on your 5 entire batch of samples, and you would then not -- and 6 that blank didn't end in 5 or 0, you would not analyze 7 that blank. 8 Q. I understand. 9 And the reason for that being that, if you 10 got a non-detect in the sample, you know that you don't 11 need to check for contamination because -- for lack of 12 contamination because you didn't find anything in the 13 sample that could potentially explain why you got a 14 positive. 15 Is that fair? 16 A. Right. That's correct. 17 Q. Okay. So of the 50 total blanks, were -- can 18 you tell me were all 50 analyzed or what percentage would 19 be -- 20 A. I don't believe -- and I know not all 50 were 21 analyzed, and if your next question is how many were, I 22 don't recall the number. I could figure that out, but I 23 don't recall the number. 24 Q. Okay. So if we wanted to figure it out, what 25 would you -- because I'm not going to make you sit here</p>

<p style="text-align: right;">Page 42</p> <p>1 and do it. What would I need to do? Would I need to look 2 for blanks that end in 5 or 0, and I can assume those were 3 analyzed? 4 A. If what you would -- would you do is on the 5 reports that the -- as long as it wasn't redacted by the 6 F.D.A., and I don't think this part was, but down at the 7 bottom, there's a quality control section of each of those 8 reports that we listed. 9 It will tell you -- it will tell you 10 what -- what we -- whether the blank was analyzed and what 11 the result of the blank was. 12 Q. Okay. I understand. 13 And then you said if it ends in a 5 or 0, 14 it was run. 15 Would there have been any others that would 16 have been run that don't end in a 5 or a 0? 17 A. Yeah, there's material blanks which are where -- 18 where we take a known negative talc material, and we run 19 that through with the samples. 20 And then there's filter blanks because 21 these things, your samples eventually end up on filters, 22 and now you're preparing those filters. 23 The filter blanks are the ones that have 24 the numbering system to them where -- where you analyze it 25 if there's a detect or if -- or if the blank ends in 5 or</p>	<p style="text-align: right;">Page 44</p> <p>1 How about that? 2 A. Okay. All right. 3 MR. PANATIER: Okay, folks. 4 (Whereupon, a recess was held 5 from 8:56 a.m. to 9:01 a.m.) 6 MR. PANATIER: Let's go back on. 7 BY MR. PANATIER: 8 Q. All right. So let's talk just a little bit 9 about your analysis. 10 One of the -- first of all, are you -- are 11 you -- have you been made aware of any criticisms that 12 Alan Segrave has leveled on your work that you did under 13 this F.D.A. contract? 14 A. I do know that -- I am aware that other labs 15 looked at this stuff and could not -- did not find what we 16 found. 17 Q. Well, do you know that they didn't find 18 chrysotile, or do you know that they're saying that the 19 results are negative? 20 MR. MASSENBURG: Objection; form. 21 THE DEPONENT: I know that -- I mean, I saw a 22 presentation in that F.D.A. meeting last month from 23 R.J. Lee where they were saying that the -- that we 24 misidentified something. 25 And then I also -- but they -- and then</p>
<p style="text-align: right;">Page 43</p> <p>1 0. The material blanks are all analyzed. All the 2 material blanks are all analyzed regardless of whether you 3 have a detector or not. 4 Q. Okay. And so I will go through and look at 5 these on my own and not waste your time doing it. 6 But let me ask you this: Just off the top 7 of your head, could you -- can you say, well, look, I 8 don't know the specific number of blanks that were 9 analyzed, but I know it was at least half. 10 Can you do that? 11 A. It -- it would be -- in total, if you were to 12 take all the material blanks and add up all of the filter 13 blanks, it's going to be about half, yeah. 14 Q. Okay. 15 A. But specifically since all of the material 16 blanks get analyzed. 17 Q. Yeah. Okay. So it would be your expectation 18 that at least -- you got at least 25 or so blanks that 19 were analyzed and came up non-detect or thereabouts. 20 Fair? 21 A. Yeah, I would say that's -- that's accurate. 22 Q. Okay. We've been going about an hour. Do you 23 want to take like a five- or ten-minute break? 24 A. Yeah, I wouldn't mind getting some water. 25 Q. Okay. Let's just do -- let's do five minutes.</p>	<p style="text-align: right;">Page 45</p> <p>1 I -- but I don't know the -- the extent of, like, exactly 2 how -- I haven't seen their reports. 3 BY MR. PANATIER: 4 Q. Okay. 5 A. I'm aware that -- I'm aware that -- that -- 6 that -- their results differ from ours. 7 Q. Are you aware that R.J. Lee Group found 8 chrysotile asbestos in the same table you looked at? 9 MR. MASSENBURG: Objection; misstates facts. 10 THE DEPONENT: No, I was not aware of that. 11 BY MR. PANATIER: 12 Q. Did you know that they also found chrysotile 13 asbestos in two samples of retained talc from the same lot 14 that your bottle came from? 15 Did you know that? 16 A. No. 17 MR. MASSENBURG: Objection; assumes facts not in 18 evidence. 19 THE DEPONENT: No, I did not. 20 BY MR. PANATIER: 21 Q. Okay. Did you know that Alan Segrave identified 22 dozens and dozens of long thin fibers that he labeled as 23 M-G-X-I, but says he was unable to get a fraction on? Did 24 you know that? 25 MR. MASSENBURG: Objection.</p>

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<p style="text-align: right;">Page 46</p> <p>1 THE DEPONENT: I did know that, yes.</p> <p>2 BY MR. PANATIER:</p> <p>3 Q. Okay.</p> <p>4 A. I didn't know it was dozens. I knew -- I did</p> <p>5 know that, though.</p> <p>6 Q. Okay. So do you know -- are you aware of how</p> <p>7 R.J. Lee Group has attempted to explain away its findings?</p> <p>8 MR. MASSENBURG: Objection to form.</p> <p>9 THE DEPONENT: No.</p> <p>10 MR. MASSENBURG: Calls for speculation,</p> <p>11 foundation.</p> <p>12 BY MR. PANATIER:</p> <p>13 Q. Sorry. Did you answer?</p> <p>14 A. Yeah. No, I am not aware.</p> <p>15 Q. Okay. You have not actually looked at the Alan</p> <p>16 Segrave Bureau Veritas report or the R.J. Lee Group report</p> <p>17 pertaining to these same samples, have you?</p> <p>18 A. I -- I have not looked at the R.J. Lee one. I</p> <p>19 have -- I actually have the Alan Segrave report, but I</p> <p>20 have not looked at it.</p> <p>21 Q. Okay. I would just, because -- because I</p> <p>22 believe that -- well, I would just recommend that before</p> <p>23 you state that -- that you're aware that their results</p> <p>24 differ from yours, I think you should read their reports.</p> <p>25 That's just -- I think you should read that.</p>	<p style="text-align: right;">Page 48</p> <p>1 re-analyzing any of these samples?</p> <p>2 A. No. I wouldn't be able to anyway because</p> <p>3 they're in possession of everything.</p> <p>4 Q. Okay. So they took -- they once -- once your</p> <p>5 work was done, they retrieved all of the samples; is that</p> <p>6 correct?</p> <p>7 A. Correct.</p> <p>8 Q. Did they retrieve the grid?</p> <p>9 A. Yeah. They took --</p> <p>10 Q. They have -- okay. So they have the grids, too.</p> <p>11 All right.</p> <p>12 As far as -- let me ask a totally different</p> <p>13 question than what I did before which is: As far as this</p> <p>14 contract goes, did you deem the analytical work on these</p> <p>15 50 samples to be concluded?</p> <p>16 A. I do.</p> <p>17 Q. Okay. Can you categorize for me just -- just,</p> <p>18 again, and I -- I don't need any specifics, but what types</p> <p>19 of general issues the F.D.A. is contacting you about? Is</p> <p>20 it just housekeeping stuff? Is it, you know, formatting</p> <p>21 stuff? Can you just give me some appreciation as to the</p> <p>22 general category it falls into?</p> <p>23 A. Housekeeping. Housekeeping is the top one, and</p> <p>24 then we also just started another contract with them. So</p> <p>25 they contacted us about that, too, so.</p>
<p style="text-align: right;">Page 47</p> <p>1 So do you have any plans to read it?</p> <p>2 A. I have Alan Segrave's report. So I probably</p> <p>3 will read it. I don't have the R.J. Lee report. But I do</p> <p>4 know of this stuff because I am in constant communication</p> <p>5 with the F.D.A.</p> <p>6 Q. Okay. Now, has the F.D.A. told you that your</p> <p>7 results are wrong for the -- for D58?</p> <p>8 A. No.</p> <p>9 Q. Has the F.D.A. told you that they are going to</p> <p>10 withdraw your results or take them out of the public</p> <p>11 purview?</p> <p>12 A. No.</p> <p>13 Q. Okay. Has the F.D.A. told you that, "Hey, you</p> <p>14 need to explain why R.J. Lee Group and Bureau Veritas say</p> <p>15 that -- that these are actually negative"? Have they done</p> <p>16 that?</p> <p>17 A. No.</p> <p>18 Q. As far as your involvement on this contract, do</p> <p>19 you view it as concluded as between AMA and F.D.A.?</p> <p>20 A. No.</p> <p>21 Q. And please explain what -- why that is?</p> <p>22 A. Because they call me almost every single day.</p> <p>23 Q. Okay. And I don't want to get into anything</p> <p>24 that might be confidential, but does it have anything to</p> <p>25 do with, for instance, re-running any of the samples or</p>	<p style="text-align: right;">Page 49</p> <p>1 Q. Right. And, of course, you and I have just used</p> <p>2 this term "housekeeping," but we haven't defined it for</p> <p>3 anybody else.</p> <p>4 Can you tell me what you mean when you use</p> <p>5 the word "housekeeping"?</p> <p>6 A. They'll be like -- they'll want us to send a --</p> <p>7 the latest revision of an SOP or something like that.</p> <p>8 They'll want to make sure that -- it's</p> <p>9 general nonanalytical items that they'll contact us</p> <p>10 about -- about the contract that we're discussing, and</p> <p>11 then for the contract with this next batch of samples,</p> <p>12 it's much more specific to -- to analysis and when are we</p> <p>13 going to finish and stuff like that.</p> <p>14 Q. All right. Do you have -- so you have another</p> <p>15 contract that you're about to begin work on with the</p> <p>16 F.D.A.</p> <p>17 Do you know how many samples that's going</p> <p>18 to be?</p> <p>19 A. I don't know the total it will be. I think</p> <p>20 their first submittal to us was 12 samples.</p> <p>21 Q. Okay. And approximately when was that</p> <p>22 submission?</p> <p>23 A. About a week ago.</p> <p>24 Q. Okay. In the -- in the group that we are</p> <p>25 talking about, 50 or so samples that took most of last</p>

<p style="text-align: right;">Page 50</p> <p>1 year to analyze.</p> <p>2 Do you know how many total Johnson &</p> <p>3 Johnson samples were actually analyzed?</p> <p>4 A. No.</p> <p>5 Q. Let's -- let's talk about in the -- in what I</p> <p>6 believe to be the final report, there's a record changes</p> <p>7 report entry, and there's two dates that are entered on</p> <p>8 this.</p> <p>9 One is October 11, 2019, and one is</p> <p>10 October 8, 2019?</p> <p>11 And it has a description of just changes</p> <p>12 that have been done.</p> <p>13 For instance, added initials and dates, to</p> <p>14 strike -- to all strike-throughs and additions to</p> <p>15 gravimetric rate sheets and it has other stuff like that.</p> <p>16 Can you just describe what types of entry</p> <p>17 it is?</p> <p>18 A. It is -- it's -- it's an entry -- they looked at</p> <p>19 an initial report that they had with us, and they have had</p> <p>20 some findings. It's crossing the T's and dotting the I's</p> <p>21 kind of entries; you know, making sure everything is as</p> <p>22 solid as possible.</p> <p>23 Q. Okay. Let's see here.</p> <p>24 One of them was, it said change the word</p> <p>25 "fiber" to "structure."</p>	<p style="text-align: right;">Page 52</p> <p>1 Q. Okay. And how do you know that what you looked</p> <p>2 at here was chrysotile as opposed to lizardite or</p> <p>3 sepiolite or something like that?</p> <p>4 A. For chrysotile in general, it's going to have --</p> <p>5 it's going to be fibrous. It has a very specific</p> <p>6 defraction pattern.</p> <p>7 And in most situations, you can see that</p> <p>8 it has a hollow tube which is a certain morphological</p> <p>9 characteristic of it. And for a properly trained skilled</p> <p>10 analyst, it's very easy to identify.</p> <p>11 Q. Okay. And would you -- would you categorize</p> <p>12 your analyst as properly-skilled, trained analyst?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. One of the other things I wanted to ask</p> <p>15 you about this report -- let me see here if I can find</p> <p>16 it. It was -- it said that in the special instruction</p> <p>17 section of the log-in sheet was revised to include the</p> <p>18 F.D.A. cancellation of a request for analyzing a fourth</p> <p>19 aliquot of D58 which would have been labeled 308006-6C as</p> <p>20 you did 006, and then you did 6A and 6B.</p> <p>21 So there was a fourth aliquot. Had it</p> <p>22 already been prepared?</p> <p>23 A. That's -- that goes into the realm of stuff they</p> <p>24 don't want me to discuss.</p> <p>25 Q. Okay. What -- what --</p>
<p style="text-align: right;">Page 51</p> <p>1 Is that just in keeping with T.E.M.</p> <p>2 nomenclature? Was that all that was or was that something</p> <p>3 else?</p> <p>4 A. That would be in keeping with T.E.M.</p> <p>5 nomenclature because in T.E.M. and in general, not</p> <p>6 everything you observe is a fiber.</p> <p>7 Q. Right. Now, of course, with the chrysotile you</p> <p>8 identified in sample D58, those were all fibers; correct?</p> <p>9 A. I can't -- I can't answer that specifically.</p> <p>10 Q. Is that just because you don't have it in front</p> <p>11 of you?</p> <p>12 A. No. That's because of the F.D.A. specifically</p> <p>13 telling me not to.</p> <p>14 Q. Okay. All right. Another -- well, let me ask</p> <p>15 you this question: Generally in your experience as, you</p> <p>16 know, someone who has worked in a lab work a long time,</p> <p>17 someone who has done a lot of T.E.M., does chrysotile ever</p> <p>18 exist in a nonfibrous form?</p> <p>19 A. No, it does not. Chrysotile is by -- chrysotile</p> <p>20 is asbestos, and it's fibrous asbestos.</p> <p>21 Q. Okay.</p> <p>22 A. There are lizardite and tigerite are related to</p> <p>23 it, and those are nonfibrous forms of -- of the same --</p> <p>24 very similar mineral, but if it's chrysotile, it's</p> <p>25 fibrous.</p>	<p style="text-align: right;">Page 53</p> <p>1 A. You would have to ask them.</p> <p>2 Q. Okay. But what we know just from the face of</p> <p>3 this is at some point per this report, the F.D.A.</p> <p>4 cancelled the request to analyze a fourth aliquot;</p> <p>5 correct?</p> <p>6 A. That's what the report says.</p> <p>7 Q. Okay. And I'm not asking for the reason,</p> <p>8 because I take it you'll put it in that bucket of things I</p> <p>9 need to talk to the F.D.A. about, but were you given a</p> <p>10 reason why?</p> <p>11 A. I think you'll need to ask them.</p> <p>12 Q. Okay. All right. Stand by. Were you --</p> <p>13 And I think you answered this, and I</p> <p>14 think it was -- but I just want to make sure I'm very</p> <p>15 clear.</p> <p>16 You said that the F.D.A. had retrieved all</p> <p>17 of the samples. Had they retrieved your couple of grams</p> <p>18 that you put in your own vials? Did they take those, too?</p> <p>19 A. Yes, they do.</p> <p>20 Q. Okay. So you -- AMA literally has no more talc</p> <p>21 material or grid or any other preparation --</p> <p>22 A. No.</p> <p>23 Q. -- of any of the talc that was analyzed by AMA;</p> <p>24 right?</p> <p>25 A. Hello?</p>

<p style="text-align: right;">Page 54</p> <p>1 Q. They take --</p> <p>2 A.</p> <p>3 MR. MASSENBURG: Hello? Hello?</p> <p>4 MR. PANATIER: Yes, I can hear you.</p> <p>5 MR. MASSENBURG: Can you hear me?</p> <p>6 MR. PANATIER: Yes.</p> <p>7 THE DEPONENT: No, I mean, you and I can hear</p> <p>8 each other, Chris. I don't think Chris Massenburg can</p> <p>9 hear us.</p> <p>10 MR. PANATIER: Yeah, but that's not important.</p> <p>11 (Laughter.)</p> <p>12 MR. PANATIER: Let's go off the record and let's</p> <p>13 just let Chris get back on. We'll just take a break until</p> <p>14 we do that.</p> <p>15 (Short recess held.)</p> <p>16 (Whereupon, a discussion was held</p> <p>17 off the record.)</p> <p>18 BY MR. PANATIER:</p> <p>19 Q. Okay. Mr. Saldivar, so with regard to this new</p> <p>20 contract, do you know whether or not that's a contract to</p> <p>21 test cosmetic talc for asbestos?</p> <p>22 A. Yes, it is a contract for that, yes.</p> <p>23 Q. Okay.</p> <p>24 A. Not just cosmetic talc, but it's better framed</p> <p>25 as opposed to cosmetic talc, it's talc-containing</p>	<p style="text-align: right;">Page 56</p> <p>1 A. I believe you asked me that, and I told you that</p> <p>2 I couldn't speak to specifics on that, but I could -- but</p> <p>3 I answered like, you know, general preparation questions</p> <p>4 to you and general -- like blank contamination --</p> <p>5 Q. Right.</p> <p>6 A. -- questions.</p> <p>7 Q. We had -- right.</p> <p>8 We had a -- we had a discussion that would</p> <p>9 generically apply to how you prepare your reference</p> <p>10 samples for the most part in your blanks; correct?</p> <p>11 A. Correct.</p> <p>12 Q. Okay. And you even told me in -- in those</p> <p>13 E-mails that there was -- that there was certain</p> <p>14 categories of information you could not talk about; right?</p> <p>15 A. That's correct.</p> <p>16 Q. Okay. In thinking back on our communications,</p> <p>17 was there anything you stated there that you felt was</p> <p>18 inaccurate or -- or something you should not have</p> <p>19 disclosed under the F.D.A. testing?</p> <p>20 A. I don't believe so. I think I spoke to you</p> <p>21 about general preparation techniques.</p> <p>22 Q. Yeah.</p> <p>23 A. And I even -- I even specified I believe -- I</p> <p>24 think I am almost positive that I told you I couldn't</p> <p>25 speak to specifics on that contract.</p>
<p style="text-align: right;">Page 55</p> <p>1 cosmetics is a better way to say it.</p> <p>2 Q. Okay. All right. So let's talk -- let's chat</p> <p>3 about -- the preparation that you did on the -- in the end</p> <p>4 to get the -- to get the record clear on this.</p> <p>5 I have asked you before about the</p> <p>6 preparation that your lab did on sample D58 for the report</p> <p>7 that was released in October, haven't I?</p> <p>8 A. Yes.</p> <p>9 Q. Right? I E-mailed you in February; correct?</p> <p>10 A. Correct.</p> <p>11 Q. All right. Let me just pull this up real fast.</p> <p>12 Okay. Actually, it wasn't February. I'm sorry. I think</p> <p>13 it was January 28th.</p> <p>14 Does that sound about right?</p> <p>15 A. Okay. It was in -- it was in that time frame.</p> <p>16 Q. Okay. So that was an E-mail I asked you about</p> <p>17 some of the work you did for the F.D.A.; correct?</p> <p>18 A. Yes.</p> <p>19 Q. In that E-mail, did I ever bring up Chanel?</p> <p>20 A. No.</p> <p>21 Q. Did I ask you about any of the testing you had</p> <p>22 done on Chanel products?</p> <p>23 A. No. You did not.</p> <p>24 Q. Did I only ask you about the J&J samples that</p> <p>25 you had tested under your F.D.A. contract?</p>	<p style="text-align: right;">Page 57</p> <p>1 Q. Right. In fact, I'm going to quote you.</p> <p>2 You said:</p> <p>3 "Hi, Chris. I am good. I hope</p> <p>4 you are as well. Regarding the F.D.A.</p> <p>5 work, although all the work is done</p> <p>6 for that contract, it doesn't expire</p> <p>7 until March 31st. All our</p> <p>8 nondisclosure agreements are still in</p> <p>9 place. Some of what you ask is</p> <p>10 general, though."</p> <p>11 And then you told me some general things</p> <p>12 about your reference materials; correct?</p> <p>13 A. Yes, I believe so.</p> <p>14 Q. Okay. So what I want to do is I am going to ask</p> <p>15 you some of the things that you told me about in that</p> <p>16 E-mail, but we will just do it here on the record.</p> <p>17 A. Okay.</p> <p>18 Q. So with regard to --</p> <p>19 MR. MASSENBURG: I'm sorry. Panatier, this is</p> <p>20 Massenburg.</p> <p>21 Can you attach or send those E-mails that</p> <p>22 you are commenting on to Irene so we can attach those as</p> <p>23 exhibits to this deposition?</p> <p>24 MR. PANATIER: Yeah, I actually had planned to.</p> <p>25 Let me attach it here. And, Irene, can you tell me</p>

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<p style="text-align: right;">Page 58</p> <p>1 your -- you know what? I bet you I have it. I don't</p> <p>2 know.</p> <p>3 (Whereupon, a discussion was held</p> <p>4 off the record.)</p> <p>5 MR. PANATIER: I have my notice, which we will</p> <p>6 make Exhibit 1. I have J&J's objections. We can make</p> <p>7 that Exhibit 2.</p> <p>8 If Chris has objections, he can E-mail you</p> <p>9 those, we will make those Exhibit 3.</p> <p>10 The E-mail that we've been discussing, we</p> <p>11 will make that Exhibit 4.</p> <p>12 How is that?</p> <p>13 (Whereupon, Plaintiff's Exhibit Nos. 1 and</p> <p>14 4 were marked for identification by the</p> <p>15 deposition officer and is attached</p> <p>16 hereto.)</p> <p>17 (Whereupon, Defendant's Exhibit Nos. 2 and</p> <p>18 3 were marked for identification by the</p> <p>19 deposition officer and is attached</p> <p>20 hereto.)</p> <p>21 MR. MASSENBURG: No objection here.</p> <p>22 MR. PANATIER: Okay. All right. So I'm sending</p> <p>23 you Exhibits 1, 2, and 4, and Massenburg will send you 3.</p> <p>24 Okay? All right.</p> <p>25 DEPOSITION OFFICER: Okay. Thank you.</p>	<p style="text-align: right;">Page 60</p> <p>1 material where we took -- weighed out a certain amount of</p> <p>2 Sigma-Aldrich, and we weighed out a certain amount of</p> <p>3 chrysotile. We mixed those together, and we put them into</p> <p>4 a solution, and at the -- after we filter all -- and this</p> <p>5 is not just for F.D.A.; this is for any talc samples we</p> <p>6 get.</p> <p>7 We -- after we filter and prepare the</p> <p>8 client samples, we take some of that solution, and we will</p> <p>9 pick one at random, and we will filter that, too.</p> <p>10 Q. Okay. So to break this up a little bit, AMA has</p> <p>11 the standards of chrysotile on -- on hand; correct?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And that sample, the 10 percent</p> <p>14 chrysotile in talc samples is an aqueous or liquid sample;</p> <p>15 correct?</p> <p>16 A. It is, yeah.</p> <p>17 Q. Okay. You are not just -- just so everyone's</p> <p>18 clear, you are not dumping chrysotile into talc under the</p> <p>19 hood next to your grid preparation for these samples, are</p> <p>20 you?</p> <p>21 A. That's correct.</p> <p>22 Q. Okay. You are -- you are taking the aqueous</p> <p>23 solution and prepping grid with that aqueous solution</p> <p>24 under the hood; correct?</p> <p>25 A. That's correct. We're taking that aqueous</p>
<p style="text-align: right;">Page 59</p> <p>1 MR. MASSENBURG: Irene, you should have my</p> <p>2 objections. I sent those earlier.</p> <p>3 MR. PANATIER: So his objections will be 3. All</p> <p>4 right.</p> <p>5 BY MR. PANATIER:</p> <p>6 Q. You guys good to continue?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. So one of the things I want to ask you</p> <p>9 about, and I have asked you about this before, with regard</p> <p>10 to this F.D.A. work is the preparation of your chrysotile</p> <p>11 standard.</p> <p>12 And one of the things that it says in their</p> <p>13 report was that the reference sample was made from the</p> <p>14 same Sigma-Aldrich talc powder spiked with 10 percent</p> <p>15 chrysotile. The reference sample was analyzed by and it</p> <p>16 was redacted on September 18th, 2019, and found to be</p> <p>17 within an acceptable limit.</p> <p>18 So, first of all, your 10 percent</p> <p>19 chrysotile standard, does that mean that you are putting a</p> <p>20 grid under the hood and pouring raw chrysotile onto it til</p> <p>21 you cover the grid by 10 percent?</p> <p>22 A. No.</p> <p>23 Q. What does it mean?</p> <p>24 A. It's -- we made a -- we made a -- I believe it's</p> <p>25 a .1, or it might be a 1, a 3 and a 10 percent reference</p>	<p style="text-align: right;">Page 61</p> <p>1 solution, and we are filtering a portion of that, and then</p> <p>2 we take the filter and put that on the grids.</p> <p>3 Q. Ah. So when you had filtered the aqueous</p> <p>4 solutions on to the filter, is that done next to the</p> <p>5 sample preparation?</p> <p>6 A. It's -- it's done at -- all of the other samples</p> <p>7 have been done already. That's the last one you do.</p> <p>8 Q. Ah. Okay. So you -- you take a -- I take it</p> <p>9 you take a pipette or a dropper and you drop some of that</p> <p>10 solution onto the grid -- onto the filter?</p> <p>11 A. You -- you -- you pipe that out a certain amount</p> <p>12 of it and you put that into -- into, like, 30 milliliters</p> <p>13 of water and then you filter in the entire thing. You</p> <p>14 want that -- if you put it directly on the filter, you</p> <p>15 wouldn't have a uniformed distribution so you're adding it</p> <p>16 to some additional clean water and then filtering the</p> <p>17 entire thing.</p> <p>18 Q. Ah. So you're taking an already liquid solution</p> <p>19 that contains talc and chrysotile.</p> <p>20 You are putting that into another liquid,</p> <p>21 and that is being placed onto the -- the seven -- seven</p> <p>22 millimeter radius filter; is that right?</p> <p>23 A. It's a 47 millimeter.</p> <p>24 Q. Oh, I'm sorry. Okay. 47-millimeter filter; is</p> <p>25 that correct?</p>

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<p style="text-align: right;">Page 62</p> <p>1 A. Yes, that's correct.</p> <p>2 Q. And at this point, all of the other samples have</p> <p>3 been prepped and -- meaning that the sample of the sample</p> <p>4 talc are already filtered and on grid; is that right?</p> <p>5 A. They are -- they are filtered. They are</p> <p>6 filtered, and they are already separated from -- from the</p> <p>7 referenced sample.</p> <p>8 And the blank sample is prepared right</p> <p>9 before the reference sample, too -- well, no, the blank</p> <p>10 sample is prepared after the reference sample.</p> <p>11 And then you -- and, but when they -- when</p> <p>12 they go down on the grids, after you have cut them and you</p> <p>13 have carbon-coated them, you're now taking out small</p> <p>14 sections of -- of each filter and laying it down on the</p> <p>15 grids.</p> <p>16 The last one that you're going to put down</p> <p>17 onto the grids is either the reference or the blank</p> <p>18 sample.</p> <p>19 Q. Okay.</p> <p>20 A. All of the customer samples would have gone down</p> <p>21 on the grids before.</p> <p>22 Q. Okay. Now, when you are putting the filter</p> <p>23 containing the reference sample and putting that filter</p> <p>24 portion onto the grid, is that done -- how is that done in</p> <p>25 relation to -- I know what you said as far as timing, it's</p>	<p style="text-align: right;">Page 64</p> <p>1 they were analyzed; correct?</p> <p>2 A. Yes.</p> <p>3 Q. And since we're talking about D58, for D58 the</p> <p>4 J&J sample, because chrysotile was found in the sample,</p> <p>5 the blanks were analyzed; correct?</p> <p>6 A. The blanks were analyzed, yes.</p> <p>7 Q. And those blanks were non-detect for any</p> <p>8 asbestos; true?</p> <p>9 A. With regards to blanks, yes, and that is -- that</p> <p>10 is -- the F.D.A., I believe -- the F.D.A. has put that out</p> <p>11 so.</p> <p>12 Q. Right. Yeah, that's in the report. Let's see</p> <p>13 here. Your count sheet. On your count sheet for -- and</p> <p>14 I'm looking at sample -- sample 6A.</p> <p>15 You've got your notations for the two</p> <p>16 chrysotile structures identified. You have a length and</p> <p>17 width and elemental I.D. You also have S-A-E-D and it</p> <p>18 says S-A-E-D -- I can't -- I can't tell what it says after</p> <p>19 that because it's kind of blurry.</p> <p>20 Do you know what it says after that -- so</p> <p>21 it says F.D.A., like --</p> <p>22 A. If -- if for chrysotile, if there's something in</p> <p>23 the -- for chrysotile -- this is in general, too, because</p> <p>24 it's -- it would -- it would say something along the order</p> <p>25 of P-O-S for positive.</p>
<p style="text-align: right;">Page 63</p> <p>1 done last, but as far as relation spatially, how is that</p> <p>2 done with regard to the samples?</p> <p>3 A. It -- it -- you could put up to about those side</p> <p>4 filters once you cut a portion out about, for -- three,</p> <p>5 four, maybe five filters on a slide that's going to go</p> <p>6 into the carbon coater. It -- it's -- it potentially</p> <p>7 could be on the same slide as an actual client sample.</p> <p>8 Q. Okay. And when you say that they were -- is</p> <p>9 that what it means when it says that they -- of the --</p> <p>10 of -- let me see the reference samples -- I think</p> <p>11 somewhere it says here, I'm looking for it. Ah, yeah.</p> <p>12 The blank and reference sample controls</p> <p>13 were prepared and they were prepared alongside customer</p> <p>14 samples.</p> <p>15 Does that mean that they were prepared in</p> <p>16 the sense that the carbon coating went on, potentially</p> <p>17 alongside the customer samples?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. It does not mean that someone is -- is</p> <p>20 handling raw chrysotile under the hood next to the client</p> <p>21 samples; correct?</p> <p>22 A. That's correct.</p> <p>23 Q. All right. And regardless of whether or not</p> <p>24 they were in proximity to the customer samples or anything</p> <p>25 like that, all of the blanks were non-detect to the extent</p>	<p style="text-align: right;">Page 65</p> <p>1 Q. Yeah. Well, one says positive and one says, I</p> <p>2 think, U-T-O?</p> <p>3 A. That's "unable to obtain."</p> <p>4 Q. Okay. So that means you can't get the S-A-E-D</p> <p>5 pattern.</p> <p>6 And I think you got a note in here that</p> <p>7 that second -- that second fiber of chrysotile was</p> <p>8 confirmed based on tubular morphology; is that correct?</p> <p>9 A. I don't have that sheet in front of me and that</p> <p>10 would be getting into the very specifics of analysis of</p> <p>11 that sample, so I wouldn't be able to answer that anyway.</p> <p>12 Q. All right. Let me see here.</p> <p>13 If at any point during this -- oh, let me</p> <p>14 ask you this: Did you produce a chrysotile reference grid</p> <p>15 for every batch of samples? Or did you just prep it once?</p> <p>16 A. No. We did it for every batch of samples, and</p> <p>17 that is standard practice for -- for any -- any talc</p> <p>18 samples that we have that come in.</p> <p>19 For every batch of them, we produce for</p> <p>20 reference samples.</p> <p>21 Q. All right. And to be clear, that is a prepping</p> <p>22 a reference sample as you did, a chrysotile reference</p> <p>23 sample, that is a generally accepted methodology for doing</p> <p>24 so, is it not?</p> <p>25 A. It -- I don't know if it's generally accepted.</p>

<p style="text-align: right;">Page 66</p> <p>1 There's -- there's not much literature out there on how to 2 make your own reference samples. 3 And with regards to asbestos and talc, it 4 can actually be quite -- quite difficult. But that's -- 5 you know, the way we've chosen to do it is to make it an 6 aqueous solution and weigh out portions of it. I have 7 tried to do it with -- with like very low concentrations 8 of tremolite. I have not been successful. 9 Q. All right. Did the F.D.A. raise any objections 10 to how you prepare the reference standard? 11 A. No. 12 Q. Okay. And this continued to -- this would be -- 13 the current contract you are on would be the third 14 contract you've done for the F.D.A.? 15 A. Yes. 16 Q. Okay. And, again, all of your lab blanks to the 17 extent that they were run in this work of over 50 samples 18 analyzed were non-detect; correct? 19 A. Correct. 20 Q. All right. Going forward, do you have -- do you 21 have any concerns that your lab is a contaminated lab? 22 A. No. I don't have concerns about that. 23 I mean, our lab analyzes a lot of samples, 24 and on any given year, it's -- it's not as much as it was, 25 say, 20 years ago, but we still find asbestos in five,</p>	<p style="text-align: right;">Page 68</p> <p>1 samples? 2 A. That's -- that's 6,000 positive samples out of 3 like 80,000 total samples or 70,000 total samples. 4 Something like that, yeah. 5 Q. Okay. So your lab is running 70 to 80,000 6 samples for asbestos and you're finding approximately 7 6,000 that contain asbestos and you said that you might 8 get two or three hits for -- in your blanks; is that fair? 9 A. Correct. 10 Q. Okay. In the case where you do get a hit, do 11 you -- what is your -- what is your procedure for 12 conducting an investigation and then re-running samples? 13 A. If -- if the samples were -- if the associated 14 samples were all negative, and you got a hit on a blank, 15 you're not going to rerun the samples, but you are going 16 to make sure you clean the area, again, where the samples 17 were prepared, you're going to have a conversation with 18 whoever handled those samples and remind them of proper 19 tool cleaning practices and things like that. 20 If the samples that -- if you found 21 something on your blank and the associated samples did 22 have asbestos in them, then you're going to look at -- 23 you're -- you're going to then investigate -- you will 24 likely have to re-prepare some samples then. 25 Q. Okay.</p>
<p style="text-align: right;">Page 67</p> <p>1 six, seven, eight thousand samples a year. You figure out 2 that -- how many times we have -- we see asbestos every 3 single day. And -- and there's a lot of stuff out there 4 with asbestos in it. A lot. 5 And so we have to be careful and we -- we 6 run a lot of blank samples. And in the course of a year, 7 we -- we do find a couple from time to time that have 8 asbestos on it. It won't be much. But, you know, 9 they're -- we have to take great care and if something 10 like that happens, we -- we -- depending on the nature 11 of the situation, we will -- you know, we will do an 12 investigation of it, or -- or just remind people prepping 13 of good practices, but -- I mean, it is something we have 14 to be aware of and be -- be cognizant of because we do see 15 a lot of -- we see a lot of positive samples come through 16 our laboratory. 17 Q. Okay. And I think you told me in your E-mail, 18 you said that last year, we found asbestos in 19 approximately 6,000 samples; is that true? 20 A. Yeah. That -- that -- I believe I did tell you 21 that. 22 Q. And you said that you do thousands of blanks 23 each year and you get two or three hits; is that right? 24 A. That would be accurate, yeah. 25 Q. And that is out of -- that is out of 6,000</p>	<p style="text-align: right;">Page 69</p> <p>1 A. Especially if -- if you're coming back with a 2 sample that is trace, meaning it's less than 1 percent 3 asbestos, and your blank is showing something like that. 4 Well, if your blank has something on it like that, you 5 better make sure that your -- that -- that you're not the 6 source of the asbestos in your client sample. 7 Q. Okay. And you said that -- you know -- if you 8 are running a total of 80,000 samples and you get two or 9 three hits, I did the math on that for the percentage and 10 you would just -- you would just divide three by 80,000 to 11 get the percentage; right? 12 A. Not quite. Because you're also not running -- 13 you're not running, you know, a blank for every single 14 live sample you have. 15 So it's -- it's -- but you are -- there are 16 blanks run for every single set of samples that you have 17 or batch of samples. There's -- sometimes there's large 18 sets that are going to have more than one blank. And this 19 goes across and we run blanks for P.L.M. and for T.E.M., 20 as well. 21 So it's not -- to get the correct 22 percentage, you would -- you would figure out, okay, how 23 many total blanks did I have? 24 And then you would take your total number 25 of hits and divide it by the total number of blanks that</p>

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<p style="text-align: right;">Page 70</p> <p>1 you had. Not the total number of client samples that you</p> <p>2 had.</p> <p>3 Q. Gotcha. Either way, any number of positives</p> <p>4 that you might get in a blank in a given year when</p> <p>5 considering very, very large number of samples you run</p> <p>6 would be extremely small, extremely low?</p> <p>7 A. It is extremely small. Yes.</p> <p>8 Q. All right. And by the way, have you worked at</p> <p>9 other labs other than AMA?</p> <p>10 A. No, I -- well, in college, yeah, but not</p> <p>11 professionally.</p> <p>12 Q. Okay. Have you looked into doing a heavy liquid</p> <p>13 density separation -- preparation technique for your talc</p> <p>14 work?</p> <p>15 A. I have the liquid and I even assigned one of my</p> <p>16 guys to practice with it, to which I just did that a</p> <p>17 little while ago. I have -- I have some concerns about</p> <p>18 that -- about that preparation technique.</p> <p>19 Q. Okay. What are your concerns?</p> <p>20 A. That -- that --</p> <p>21 MR. MASSENBURG: Sorry, Andreas. This is</p> <p>22 Massenburg again. I just object that this exact line</p> <p>23 of questions was asked and answered in your earlier</p> <p>24 deposition, and in the "Zimmerman" and "Welch" matter that</p> <p>25 was noticed by Mr. Panatier's firm and you discussed it in</p>	<p style="text-align: right;">Page 72</p> <p>1 A. Correct.</p> <p>2 Q. And, yeah. And I wanted to do that on this</p> <p>3 depo. Because I think we just -- I think -- and I'm -- my</p> <p>4 recollection might be poor. I think we just sort of</p> <p>5 picked one at random, and I think it was a -- it was a raw</p> <p>6 talc material that we had looked at at that time.</p> <p>7 Do you recall that?</p> <p>8 A. Correct.</p> <p>9 Q. All right. And so what I would like to do is</p> <p>10 just do the same math just with this specific sample so</p> <p>11 we're not really picking one at random.</p> <p>12 We're sort of picking one that we know what</p> <p>13 the sample is. It's not a sample that was done for</p> <p>14 litigation. It was done under the F.D.A. contract.</p> <p>15 Are you okay to do that?</p> <p>16 A. Yeah. As much as I can do it off the top of my</p> <p>17 head, yeah.</p> <p>18 Q. Well, I have the numbers here and I will just</p> <p>19 represent them to you based on what it says here in the</p> <p>20 report. And we can just go off that. If I'm wrong, then</p> <p>21 the number will be -- then we can ignore the number.</p> <p>22 But I will just go off of what is in your</p> <p>23 report, and we should be able to go a little bit quicker</p> <p>24 than last time because I now kind of know how to do it.</p> <p>25 The first thing --</p>
<p style="text-align: right;">Page 71</p> <p>1 detail. So asked and answered.</p> <p>2 MR. PANATIER: Yeah, I'm going to ask just a</p> <p>3 couple of questions about it, because now we've got</p> <p>4 someone's that's actually working on it at the office. I</p> <p>5 don't intend to retread all of that.</p> <p>6 BY MR. PANATIER:</p> <p>7 Q. If you can just answer just the question about</p> <p>8 your concerns about the method, and then we will move on.</p> <p>9 A. It's -- its inability -- first of all, you're</p> <p>10 not going to find chrysotile using it. And I think that's</p> <p>11 an important -- important thing to be analyzing for.</p> <p>12 And then if you were dealing with</p> <p>13 anthophyllite, that does have little to no iron in it.</p> <p>14 Then it's also not dense enough to use the heavy liquid</p> <p>15 separation technique.</p> <p>16 And we actually see a lot of samples that</p> <p>17 have a mixture of talc and anthophyllite.</p> <p>18 Q. Okay. Has the F.D.A. asked you to do any</p> <p>19 analysis with heavy liquid density separation prep?</p> <p>20 A. No, they haven't.</p> <p>21 Q. Okay. All right. So you recall that in June</p> <p>22 when we did your first deposition in this case, that you</p> <p>23 very graciously went through some math with me where we --</p> <p>24 we tried to figure out what fraction of a gram you were</p> <p>25 actually looking at with a given sample. And --</p>	<p style="text-align: right;">Page 73</p> <p>1 MR. MASSENBURG: I'm sorry. I'm sorry. Chris,</p> <p>2 this is Massenburg, again. I would just say if you do</p> <p>3 have a calculator and or access to the report Mr. Panatier</p> <p>4 is referencing, I would encourage you to review those</p> <p>5 and/or go along with him and attempt to make the</p> <p>6 calculations yourself.</p> <p>7 I am not stating here that Mr. Panatier</p> <p>8 would be wrong in his calculations, but in past experience</p> <p>9 myself, sometimes there had been errors in his</p> <p>10 calculations under these or similar circumstances. With</p> <p>11 that caveat, I will leave it to your discretion on how to</p> <p>12 proceed.</p> <p>13 BY MR. PANATIER:</p> <p>14 Q. Well -- and with -- just -- just to give</p> <p>15 ourselves a framework, Mr. Saldivar, you and I did this</p> <p>16 together last time, and we verified the math, didn't we?</p> <p>17 A. Yeah, to the best of my ability. I mean it was</p> <p>18 doing it in my head. So.</p> <p>19 Q. Well, we were in person, and I had a calculator;</p> <p>20 right?</p> <p>21 A. I guess so. If you say you did. I don't</p> <p>22 remember.</p> <p>23 Q. Okay.</p> <p>24 A. We all have calculators now on our phones, so.</p> <p>25 Q. We certainly do. To the extent that you want to</p>

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<p style="text-align: right;">Page 74</p> <p>1 bring up the report or to the extent that you want to have</p> <p>2 your calculator there, please do.</p> <p>3 A. Okay. I don't have the access to the report</p> <p>4 right now.</p> <p>5 Q. Okay.</p> <p>6 A. But I -- I can calculate if I have to.</p> <p>7 Q. That's fine. I will -- I will just quote to you</p> <p>8 the numbers that are -- that are here from the report and</p> <p>9 we will just use those. Okay?</p> <p>10 A. Uh-huh.</p> <p>11 Q. So the first thing -- the first thing obviously</p> <p>12 is our -- our starting weight. And the starting weight</p> <p>13 that we have -- let me see here.</p> <p>14 Starting weight, it says that you weigh out</p> <p>15 .1 to .8 grams of material.</p> <p>16 On average, would that be like .4 or .5?</p> <p>17 A. Somewhere around there, yeah.</p> <p>18 Q. Okay. So why don't we do .4, and you just take</p> <p>19 that.</p> <p>20 And the next thing that happens is you</p> <p>21 digest away the organics; right?</p> <p>22 A. Correct.</p> <p>23 Q. And you record the post ash weight; correct?</p> <p>24 A. That's correct.</p> <p>25 Q. Okay.</p>	<p style="text-align: right;">Page 76</p> <p>1 A. It's the mass of the empty vial.</p> <p>2 Q. Okay. And then if I have the mass gram of the</p> <p>3 vial sample for 6B, that is 7.6634.</p> <p>4 So if we want to know how much of the talc</p> <p>5 is there in the actual -- that was actually taken, we</p> <p>6 would actually just subtract the mass of the vial from the</p> <p>7 mass of the vial of plus the sample; right?</p> <p>8 A. You take the mass of the vial and the sample and</p> <p>9 subtract the mass of the vial. That's correct.</p> <p>10 Q. So if I take 7.6634 and I subtract 7.1687, I</p> <p>11 get -- and it's right between what you and I said, .49</p> <p>12 grams.</p> <p>13 A. Yes.</p> <p>14 Q. As what the weight of the talc was. Okay. And</p> <p>15 then, if we want to know how much was digested away, we</p> <p>16 have this mass grams post ash, and its vial and samples,</p> <p>17 and it tells us that it's -- it's 7.6622. So it sounds to</p> <p>18 me like --</p> <p>19 A. So not very much. Not very much was taken away</p> <p>20 during ashing.</p> <p>21 Q. Right. Because our total weight with both was</p> <p>22 7.6634, and after ashing, it's 7.6622; right?</p> <p>23 A. Correct.</p> <p>24 Q. So if we wanted to know the percentage, we would</p> <p>25 take the 7.6622 and divide that by 7.6634; correct?</p>
<p style="text-align: right;">Page 75</p> <p>1 A. Yup.</p> <p>2 Q. So -- so -- if I want to know, in looking at one</p> <p>3 of these reports, what the post ashing weight was, where</p> <p>4 would I look?</p> <p>5 A. Um... If the F.D.A. has included our weight</p> <p>6 sheets on there, it would -- it would -- you would take</p> <p>7 the -- the weight of the vessel, crucible or vessel, glass</p> <p>8 vial -- we put them in glass vials -- the post ash weight</p> <p>9 of that and you would subtract the weight of the empty</p> <p>10 vial.</p> <p>11 Q. Right. Okay. I'm going to -- I think we</p> <p>12 actually have that here.</p> <p>13 So let's just do -- sample -- we will do</p> <p>14 sample 6B, and what I have here is I have a sheet called</p> <p>15 Gravimetric Reduction Infiltration Bench Sheet, and for</p> <p>16 6B, I have the mass of the vial in the sample, the mass</p> <p>17 post ash vial sample, the mass filter and petri dish, the</p> <p>18 mass post acid wash going all the way across, the</p> <p>19 filtration weights and all of that.</p> <p>20 Is that what we would need?</p> <p>21 A. Yes. That's correct. Yeah.</p> <p>22 Q. Okay. So for -- and let's -- instead of taking</p> <p>23 averages, let's just use the exact numbers here. So for</p> <p>24 6B, it says mass grams vial, and it says 7.1687.</p> <p>25 What does that mean? The mass grams vial?</p>	<p style="text-align: right;">Page 77</p> <p>1 A. You want to -- if you know the percent, you take</p> <p>2 the difference between those two numbers, which is .12 --</p> <p>3 .0012.</p> <p>4 Q. Okay.</p> <p>5 A. And then you divide that by the initial sample</p> <p>6 weight of .49.</p> <p>7 Q. Ah. Okay.</p> <p>8 A. And then you multiply that by 100.</p> <p>9 Q. Okay. So if we -- if you wanted to know the</p> <p>10 percentage, then we divide the -- you said we divide .0012</p> <p>11 by .49?</p> <p>12 A. Yeah. And then multiply that by 100.</p> <p>13 Q. Okay. So I get .00244898, and I'm going to</p> <p>14 multiply that by 100?</p> <p>15 A. And then you get about a quarter of a percent.</p> <p>16 Q. Yeah. So .24. So we're looking at 99.76?</p> <p>17 A. Yeah.</p> <p>18 Q. Percent? Okay.</p> <p>19 A. Correct.</p> <p>20 Q. Okay. So of our starting weight of .49 grams,</p> <p>21 if we want to know the remaining weight after ashing, we</p> <p>22 just take .49 grams and we multiply it by .9976; right?</p> <p>23 A. Or you just take 7.6622 and minus 7.1687 which</p> <p>24 is easier.</p> <p>25 Q. So 7.6622 minus 7.1687?</p>

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<p style="text-align: right;">Page 78</p> <p>1 A. Yeah.</p> <p>2 Q. That tells me we are at --</p> <p>3 A. It should be .0012 less than the -- than the</p> <p>4 initial weight.</p> <p>5 Q. Okay. It's .0012 percent less or grams less?</p> <p>6 A. No. Grams less, yeah.</p> <p>7 Q. Okay. So we just take our .49 and subtract</p> <p>8 .0012; fair?</p> <p>9 A. Yeah. I think -- I'm doing it here by hand. I</p> <p>10 think the initial was .4947, so your next one is going to</p> <p>11 be .4935 or something like that. It should be .4935.</p> <p>12 Q. That's what I got. So .493 -- well, if we start</p> <p>13 with .49 grams, it has to be less; right?</p> <p>14 A. Yes, it is, but 7.6634 minus 7.1687 isn't</p> <p>15 exactly .49. It's .4947.</p> <p>16 Q. Ah, okay. Okay. So after ashing, our weight of</p> <p>17 the sample is .4935 grams; right?</p> <p>18 A. Right.</p> <p>19 Q. Okay. Okay. So typically you then -- you</p> <p>20 suspend half of that into 100 ml; right?</p> <p>21 A. There's another step in between.</p> <p>22 Q. Okay.</p> <p>23 A. So now you're going to do the acid treatment.</p> <p>24 Q. Ah.</p> <p>25 A. So that was the ashing. So now you're going to</p>	<p style="text-align: right;">Page 80</p> <p>1 A. Okay. So now you're going to take the 6.5285.</p> <p>2 Q. Uh-huh.</p> <p>3 A. And you're going to minus the 6.0903.</p> <p>4 Q. Okay. And I get .4382?</p> <p>5 A. Yeah, that's what I get, too.</p> <p>6 So, now, to figure out your -- your</p> <p>7 percentage of acid dissolution, you're going to take your</p> <p>8 initial sample weight .4947 minus the .4382 to get the</p> <p>9 difference.</p> <p>10 Q. Okay. So we're going to take .4947 and</p> <p>11 subtract --</p> <p>12 A. Minus the -- minus -- agree.</p> <p>13 Q. Okay.</p> <p>14 A. The .4382.</p> <p>15 Q. Okay. I get .0565.</p> <p>16 A. That's what I get, too. And now you divide that</p> <p>17 by your initial sample weight, .4947. And then multiply</p> <p>18 it by a hundred.</p> <p>19 Q. Okay. I get 11.42.</p> <p>20 A. That's a -- that sounds about right.</p> <p>21 Q. And then we subtract that from a hundred, and to</p> <p>22 get our weight after acid and ashing; correct?</p> <p>23 A. That's correct. And so we had -- we had a about</p> <p>24 a quarter percent in -- in the -- in the ashing.</p> <p>25 So you would take that percent and</p>
<p style="text-align: right;">Page 79</p> <p>1 do the acid treatment. So to do that, you take what is in</p> <p>2 the vial, the .4935.</p> <p>3 You add your acid to it and you let it</p> <p>4 digest for about five to ten minutes.</p> <p>5 And then you filter that -- that solution,</p> <p>6 that acid solution, and you've added some water in to stop</p> <p>7 the -- the -- to dilute the acid afterwards.</p> <p>8 But you add that -- you then filter that</p> <p>9 onto a pre-weight filter.</p> <p>10 As a matter of fact, and you've pre-weighed</p> <p>11 the petri dish that that filter you're going to put that</p> <p>12 filter in, too, and so -- then you let it dry and then</p> <p>13 you -- you weigh that again.</p> <p>14 So now you can -- so now you can calculate</p> <p>15 how much you lost to acid dissolution.</p> <p>16 Q. Okay. And we got the numbers here. So tell me</p> <p>17 how we do that.</p> <p>18 We have the math of the filter and in the</p> <p>19 petri dish.</p> <p>20 Do we need that?</p> <p>21 A. Yes, we do.</p> <p>22 Q. So that is 6.0903.</p> <p>23 A. Okay.</p> <p>24 Q. And then we have the math post acid of the</p> <p>25 filter in the petri dish, which is 6.5285.</p>	<p style="text-align: right;">Page 81</p> <p>1 this percent, and you minus those from a hundred. And</p> <p>2 you're going to have your percentage of -- of residue</p> <p>3 remaining.</p> <p>4 Q. Right. So we've had 11.42 after acid and then</p> <p>5 we had .24 after ash, so our total loss would be 11.66</p> <p>6 grams; is that correct?</p> <p>7 A. Yeah. That sounds about right, yeah.</p> <p>8 Q. Okay. And then we subtract that from 100. So</p> <p>9 100 minus 11.66 equals 88.34; right?</p> <p>10 A. So that's what is remaining.</p> <p>11 Q. That's right.</p> <p>12 So we have our remaining weight. So we</p> <p>13 have a starting weight of .49. And we multiply that times</p> <p>14 88.34; right?</p> <p>15 A. (No audible response by the deponent.)</p> <p>16 Q. And that tells us --</p> <p>17 A. Um... Yeah, that -- that should equal -- that</p> <p>18 should be equal to the .4382. Because you've already</p> <p>19 figured out -- you've already figured out what you have</p> <p>20 left.</p> <p>21 Q. Right. Right. So --</p> <p>22 A. So you already know that number. That's how</p> <p>23 you figured out the 88. That's how you figured out</p> <p>24 your percent loss. So you already know what you have</p> <p>25 left. You have .4382 left.</p>

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<p style="text-align: right;">Page 82</p> <p>1 Q. I did .4328. I don't think it's that important, 2 but... 3 A. Well, it is -- there -- that -- because we're -- 4 we're taking numbers that go well beyond the two decimal 5 places and we are rounding them and yeah -- 6 Q. Yeah -- 7 A. But you -- you know -- you -- you already know, 8 you weighed your filter with your -- with your sample on 9 it, and you had your -- your -- you knew where those -- 10 that filter and that petri dish weight before, so you know 11 that this point in the sample prep, you have .4382 left. 12 Q. Okay. So we have .4382 grams? 13 A. Yeah. 14 Q. Now, going back to the procedure here on your 15 report -- all right. 16 Do you still -- this is not in the report. 17 It wasn't in the last report that you and I went over 18 either, but you told me that you suspend half of that into 19 100 -- 20 A. You -- you take approximately half of that 21 .4382, and you suspend that into 100 milliliters of water. 22 So let's just say for this, you put in -- 23 Q. .219 -- 24 A. -- .21, yeah, .21 or .22, somewhere around .215. 25 Q. Okay.</p>	<p style="text-align: right;">Page 84</p> <p>1 And obviously, somewhere between -- between 2 .2 millimeters up to about 2 milliliters. 3 Q. And here -- here it says about .2 ml with the 4 volumes filtered. 5 Is that what I'm looking for? 6 A. Yes. 7 Q. Okay. So if it's .2 ml, then -- and we know 8 that there's .0022 grams per ml, then if we want to know 9 how much was filtered on, we know that in the total of .4 10 ml; right? Or, no, I'm sorry. 11 We know it's .2 ml, and we would -- 12 A. It's basically -- it's -- it's basically 13 1/500ths -- 14 Q. Right. 15 A. -- of -- of the amount that's in -- that's in 16 that jar. So we know we put in .22 in there. 17 So 1/500ths of that is actually what makes 18 it onto the filter. 19 Q. Wow. And so if we know that there's .0022 grams 20 per ml, we basically want 2/10ths of that; right? 21 A. Right. 22 Q. Right? 23 So we would take -- we would take .0022 24 times .1 which would give us 1/10th, multiply that times 25 2, and that would give us 2/10ths which would be .00044.</p>
<p style="text-align: right;">Page 83</p> <p>1 A. And then you put that into the water and then 2 you filter a -- actually a small portion of that. 3 You -- you suspend it into 100 millimeters, 4 and then you're filtering somewhere 2 milliliters in that, 5 sometimes it's less than that; sometimes it's even less 6 than 1 millimeter of it. 7 Q. Okay. Let's stop there. 8 So -- so -- it -- we're -- if we're 9 doing -- it looks like it's .22 grams, and we want to know 10 what that is per ml, we simply divide the .22 by 100; 11 correct? 12 A. Yes. 13 Q. To get the grams per ml; right? 14 A. Right. 15 Q. Okay. Now, if I want to know exactly how much 16 was placed onto the filter, will that be recorded in here? 17 Or is that something that is so remote that you don't 18 record it either? 19 A. No. There -- there should be a sheet -- 20 Q. Okay. 21 A. -- in there. There should be a filtration sheet 22 or something like that, and I don't know if F.D.A. put 23 that out, but in general, there would be an amount of that 24 solution of that 100-millimeter solution that was filtered 25 onto the 47 millimeter filter.</p>	<p style="text-align: right;">Page 85</p> <p>1 Does that sound right? 2 A. Yeah. That sounds about right. 3 Q. And that is .0044 (sic) grams that would be 4 placed onto the filter; right? 5 A. That's correct. 6 Q. Can you guys hear my dog howling? 7 A. I heard something. I heard a little bit. But 8 not much. 9 Q. Let me know if it gets in the way, because 10 they're idiots, and that's what they're doing right now. 11 Okay. 12 So we're at .00044 grams that are placed 13 onto the filter. 14 The filter, you told me before, is a -- how 15 much square area, effective square area? 16 A. I -- it's something around a thousand. It's 17 right around a thousand 50 square millimeters of the 18 effective filter area. 19 Q. Okay. Let me just -- let me just bring up -- 20 A. I am using thousands. It's going to be easier 21 to calculate. 22 Q. Yeah. I think you told me the exact number last 23 time. Yeah, you said -- you said and that's -- that's a 24 good memory. You said 1047. 25 Is that -- is that the same as 1050?</p>

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<p style="text-align: right;">Page 86</p> <p>1 A. No. It's 1047.</p> <p>2 Q. Okay. So 1047 square millimeters is our filter.</p> <p>3 And so if we want to know grams per square</p> <p>4 millimeter, we simply divide the .00044 grams by 1047;</p> <p>5 correct?</p> <p>6 A. Uh-huh.</p> <p>7 Q. And I get .00000042 grams per square millimeter;</p> <p>8 correct?</p> <p>9 A. That sounds about right. Yeah.</p> <p>10 Q. Okay. And then for this if we want to know</p> <p>11 about the actual area looked at, the square millimeters,</p> <p>12 you looked at how many grid openings per sample?</p> <p>13 A. So, for instance, for this sample that you've</p> <p>14 just on the calculation for, this one, we now do 20 grid</p> <p>15 openings.</p> <p>16 Q. All right. So -- so for sample 6B that we've</p> <p>17 been talking about of -- of -- of D58, 6B, you're saying</p> <p>18 that there's 20 grid openings analyzed; fair?</p> <p>19 A. Yeah.</p> <p>20 Q. So we would take our -- each grid opening is --</p> <p>21 I think you told me --</p> <p>22 A. It's around -- yeah, about .014 millimeters.</p> <p>23 You take .014 and multiply that by 20 to get the total</p> <p>24 area analyzed.</p> <p>25 And then you -- you could then calculate --</p>	<p style="text-align: right;">Page 88</p> <p>1 a gram that is, I simply divide that into one; correct?</p> <p>2 A. You would -- you would take -- if you want to</p> <p>3 know the percentage of it, you would take that particular</p> <p>4 weight. And you -- and well, since you're going to -- you</p> <p>5 take your weight of something and divide it by -- divide</p> <p>6 it by your -- you know -- you know -- for this, it's --</p> <p>7 you are dividing by 1, so it's going to be the same</p> <p>8 number. You just multiply it by a hundred to get a</p> <p>9 percentage.</p> <p>10 Q. Well, I'm not looking for a percentage. I'm</p> <p>11 looking for proportion -- we are talking about the same</p> <p>12 thing, but I want to --</p> <p>13 A. Well, a percentage is a proportion.</p> <p>14 Q. I understand. I understand.</p> <p>15 But in terms of we can say 25 percent or we</p> <p>16 can say .14; right?</p> <p>17 So what I want to do is -- if I want to</p> <p>18 know what fraction of a gram was looked at, I can simply</p> <p>19 divide this into one; correct?</p> <p>20 A. No. Because -- you're -- you're -- no, because</p> <p>21 then you're going to end up with -- I think -- it has to</p> <p>22 be the -- the fraction of the --</p> <p>23 Q. Well, it's very simply, if I want to know how</p> <p>24 many times .00000012 goes into a gram, I divide it into</p> <p>25 one; right?</p>
<p style="text-align: right;">Page 87</p> <p>1 then you -- that's a -- that's a percentage or a fraction</p> <p>2 of a millimeter that was actually analyzed.</p> <p>3 And so then you figure out the total number</p> <p>4 of grams per millimeter on there.</p> <p>5 So now you can figure out the total -- the</p> <p>6 actual total amount of sample that was looked at.</p> <p>7 Q. Right. So --</p> <p>8 A. That is very small.</p> <p>9 Q. Right. So if you've got .014 millimeter for a</p> <p>10 grid opening times 20, I get .28 square millimeters;</p> <p>11 right?</p> <p>12 A. Yes.</p> <p>13 Q. Okay.</p> <p>14 A. So about a quarter of a millimeter.</p> <p>15 Q. Okay. And if we know that there is a .00000042</p> <p>16 grams per square millimeter, we would just multiply that</p> <p>17 by times .28; right?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And I get .00000012. Total grams</p> <p>20 analyzed per aliquot.</p> <p>21 Is that correct for this aliquot a -- a</p> <p>22 sample --</p> <p>23 A. For that aliquot, that sounds -- that sounds</p> <p>24 about right.</p> <p>25 Q. Okay. And if I want to know what proportion of</p>	<p style="text-align: right;">Page 89</p> <p>1 A. Yeah. Yeah.</p> <p>2 Q. So I'm going to take one, I'm going to divide it</p> <p>3 by point one, two, three, four, five, six zeros 12, and I</p> <p>4 get 8,333,333, which means that for this analysis, and we</p> <p>5 may have looked at 1/8,333,333rd of a gram; right?</p> <p>6 A. That -- that sounds about right, because you are</p> <p>7 dealing in with what's on a T.E.M. grid, and you are</p> <p>8 dealing down in the nanograms's range.</p> <p>9 Q. Right. And so you and I did this before with</p> <p>10 our other one. The samples, each sample aliquot that you</p> <p>11 are looking at, of course, is the homogenized sample;</p> <p>12 correct?</p> <p>13 A. Yes.</p> <p>14 Q. And so all things being equal, in order to find</p> <p>15 one fiber -- in order to find one fiber based on this</p> <p>16 analytical sensitivity, there would have to be about</p> <p>17 8,333,333 present; correct?</p> <p>18 A. In a -- in a -- in a gram?</p> <p>19 Q. Yeah.</p> <p>20 A. For -- for this particular situation, it</p> <p>21 would -- it would -- it would calculate out to something</p> <p>22 like that.</p> <p>23 Q. Okay. And --</p> <p>24 A. But there's also -- have -- but just to point</p> <p>25 out with the -- one of the reasons, too, that you take a</p>

<p style="text-align: right;">Page 90</p> <p>1 multi-analytical approach to this is which includes P.L.M. 2 is because with P.L.M., you get to look at much more 3 sample than you get to look at with T.E.M. 4 Q. Yeah. And you have a tradeoff. And you get to 5 look at more samples -- 6 A. Yeah. 7 Q. -- but you have a different type -- 8 A. Much less resolution. 9 Q. Yeah. Okay. So -- and these chrysotile fibers, 10 by the way, these were not identified by P.L.M., and they 11 were not visible by P.L.M.; correct? 12 A. Stuff like that, no, you would not see it by 13 P.L.M. 14 Q. Right. Because we're talking about based on 15 the count sheet, you are talking about width of these 16 chrysotile fibers of .05, .06. That's not resolvable-type 17 P.L.M.; correct? 18 A. Right. So your hopes for the P.L.M. approach to 19 it as well, too, that you see chrysotile is often bundled, 20 and your -- your hopes are that since you get to look at 21 orders of magnitude more sampled by P.L.M., that you would 22 run across something that is resolvable by the optical 23 microscope that would -- you know, so -- 24 Q. Right. 25 A. That's the multi-task approach to looking for</p>	<p style="text-align: right;">Page 92</p> <p>1 So we use ultrasonics in the preparation. 2 The acid dissolution is a very aggressive 3 method, and it helps to -- all of this agitation of the 4 sample helps to do that. So if you were able to take -- 5 so by going backwards and saying that okay, one gram has 6 this many millions of fibers in it, that is true, if 7 you -- but if -- in its raw form, would it be in there as 8 8 million individual fibers? It wouldn't be. It would 9 likely be in there as -- as a certain number of bundles 10 because bundles themselves especially with chrysotile can 11 have thousands and thousands of fibers in each bundle. 12 Q. But -- okay. 13 A. It is a useful number to give you some idea of 14 what you're looking at. 15 Q. So -- so let's -- we -- I'm going to examine 16 that. 17 But going on what was actually seen, we 18 know that four fibers were identified in that sample 19 and we know that as on a fibers per gram analytical 20 sensitivity, you are about 8 million. 21 If we wanted to know how many after prep, 22 okay, I'm accepting your caveat on the prep and how it 23 affects the -- the talc. 24 I mean, I -- I hear that. I'm going to ask 25 you a few questions about that.</p>
<p style="text-align: right;">Page 91</p> <p>1 this stuff. 2 Q. Right. And so, for instance, if we are looking 3 at sample test B that we have been looking at, that would 4 report that there were four chrysotile fibers found; 5 right? 6 A. Uh-huh. I believe that's what the final report 7 says. 8 Q. Okay. And so if we want to know the approximate 9 concentration in terms of actual fibers per gram, we know 10 that to find one, we are talking about that 8 million 11 range. And if you assign -- 12 A. Yeah. 13 Q. Go ahead. Sorry. 14 A. It's a little bit more complicated than that in 15 that chrysotile in nature, this is in general, stays 16 bundled quite often. 17 And so part of our preparation process 18 is -- is we want to -- we want to break up those bundles. 19 We want to break up those bundles and disperse that stuff 20 as much as possible. 21 So if it's staying bundled like that, it 22 would be -- it would be more -- it would be more difficult 23 to find. So we want to break that up. 24 We want to break it up, and we want to 25 disperse it as much as possible.</p>	<p style="text-align: right;">Page 93</p> <p>1 A. Okay. 2 Q. But based on what was actually found, if we want 3 to know the total numbers of those fibers as they existed 4 after prep, you simply take the four -- the analytical 5 sensitivity of a little over 8 million; correct? 6 A. Yes. 7 Q. Giving us 24 -- 32 million? 8 MR. MASSENBURG: Object to the form. 9 THE DEPONENT: Yes, yes. 10 BY MR. PANATIER: 11 Q. Okay. And so as far as what actually existed 12 after prep, okay, and we will talk about the others, but 13 what it listed in the sample after prep was something on 14 the order of 32 million fibers per gram; correct? 15 MR. MASSENBURG: Object to the form. Same 16 objections -- 17 (Speaking simultaneously.) 18 THE DEPONENT: Yeah, it would be something like 19 that. 20 MR. MASSENBURG: Andreas, I apologize. This is 21 Chris, and I think we are just going to get a few 22 objections, and I hate to talk over you. 23 Chris, is it okay if I wait until Andreas 24 finishes his answer before I make my objection just so 25 that I'm not interrupting the answer?</p>

<p style="text-align: right;">Page 94</p> <p>1 MR. PANATIER: Sure.</p> <p>2 MR. MASSENBURG: My objection is it's an</p> <p>3 incomplete hypothetical, assumes facts, speculation, and</p> <p>4 vague.</p> <p>5 BY MR. PANATIER:</p> <p>6 Q. Okay, sir. You can answer.</p> <p>7 A. Yes.</p> <p>8 Q. Okay. All right. Now, going back to some of</p> <p>9 the things that you said about the prep, that one of the</p> <p>10 things you are doing, you are doing sonication; you're</p> <p>11 doing the act of prep and so forth.</p> <p>12 It would be your expectation that to the</p> <p>13 extent that there are bundles present of that chrysotile,</p> <p>14 that those methods would further break up those bundle; is</p> <p>15 that correct?</p> <p>16 A. Yes. That's what you wanted to do if it's</p> <p>17 there.</p> <p>18 Q. Right. And you're not assuming, are you, that</p> <p>19 as the talc arrives to you, to the extent that there's</p> <p>20 chrysotile there, that's all of the chrysotile present is</p> <p>21 in bundles at that point, are you?</p> <p>22 A. Now, you make no assumptions like that at all,</p> <p>23 no.</p> <p>24 Q. Right. And that's because you understand that</p> <p>25 this talc has already been extensively milled. You know</p>	<p style="text-align: right;">Page 96</p> <p>1 tested under your method, it contained approximately</p> <p>2 32 million of the chrysotile fibers, it would be your</p> <p>3 expectation that however it arrived at AMA, it contained</p> <p>4 less structures than the 32 million because it had not yet</p> <p>5 been prepped with acid and sonication; is that correct?</p> <p>6 MR. MASSENBURG: Objection to the form.</p> <p>7 THE DEPONENT: I -- I -- I -- I would expect</p> <p>8 that for any talc sample that I found chrysotile in.</p> <p>9 BY MR. PANATIER:</p> <p>10 Q. Okay. Sure.</p> <p>11 MR. MASSENBURG: Let me just enter my objection.</p> <p>12 I just object that it's overbroad, speculation, vague,</p> <p>13 improper and incomplete hypothetical, assumes facts not in</p> <p>14 evidence.</p> <p>15 MR. PANATIER: That's fine.</p> <p>16 BY MR. PANATIER:</p> <p>17 Q. And, sir, as you sit here today, you cannot tell</p> <p>18 us in a scientific way -- well, I know that it's the</p> <p>19 actual number of structures prior to preparation was</p> <p>20 75 percent of that 32 million or 10 percent of that</p> <p>21 32 million. You have not done that.</p> <p>22 Is that fair?</p> <p>23 A. I have not.</p> <p>24 MR. MASSENBURG: Objection.</p> <p>25 BY MR. PANATIER:</p>
<p style="text-align: right;">Page 95</p> <p>1 that; right?</p> <p>2 A. Yes. And even during milling, it is -- and I</p> <p>3 can tell you this from trying to make my own reference</p> <p>4 material that to get it to disperse in milling is</p> <p>5 difficult.</p> <p>6 It takes on -- I found that the best way to</p> <p>7 get it to break up is ultrasonication.</p> <p>8 Q. Okay. But I guess my question is: You don't</p> <p>9 know -- you haven't looked at or -- and probably are not</p> <p>10 aware of anyone who's done it -- I'm not, but that of what</p> <p>11 proportion of chrysotile as it exists in samples like this</p> <p>12 to the extent it exists, prior to being analyzed is in</p> <p>13 bundle versus individual fibrils, have you?</p> <p>14 A. No, I have not.</p> <p>15 Q. Okay. And so -- and so while it would be your</p> <p>16 expectation that the preparation, your preparation would</p> <p>17 increase the number of fibrils by breaking up some</p> <p>18 bundles, you have no way of telling us, well, we know that</p> <p>19 it increased the number of fibrils or individual fibers by</p> <p>20 X amount; correct?</p> <p>21 A. No, I would not. I can think of some ways you</p> <p>22 can do it, but -- but I do not, no.</p> <p>23 Q. Okay. And so -- and so -- what I believe I hear</p> <p>24 you -- I am hearing you say is that even though, yes, as</p> <p>25 tested sample 58 or D58, the J&J sample, even though as</p>	<p style="text-align: right;">Page 97</p> <p>1 Q. Okay. All right. We've been going a little bit</p> <p>2 more than an hour and ten minutes on that second section.</p> <p>3 I am very close to being done, Mr. Saldivar.</p> <p>4 Do you want to do just a five-or</p> <p>5 seven-minute break?</p> <p>6 A. Yeah, I could use one right now.</p> <p>7 Q. Okay. Let's -- let's do that, and we will come</p> <p>8 back.</p> <p>9 A. Okay. All right.</p> <p>10 MR. MASSENBURG: Do you mind if we do ten? I</p> <p>11 just -- in case anybody needs to go to the restroom or</p> <p>12 otherwise?</p> <p>13 MR. PANATIER: Ten is fine.</p> <p>14 MR. MASSENBURG: All right.</p> <p>15 (Whereupon, a recess was held</p> <p>16 from 10:25 a.m. to 10:41 a.m.)</p> <p>17 BY MR. PANATIER:</p> <p>18 Q. There have been a few questions I have asked</p> <p>19 you, you know, I think that's all been in the purview of</p> <p>20 the F.D.A., and I have not impressed on those, and then</p> <p>21 there have been questions that you have answered</p> <p>22 pertaining to these reports you did under the contract</p> <p>23 with the F.D.A.</p> <p>24 To the extent you have answered questions,</p> <p>25 is it your judgment that you are -- you are within your</p>

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<p style="text-align: right;">Page 98</p> <p>1 purview and you are fine to talk about those issues?</p> <p>2 A. Yes, because I believe the stuff that I answered</p> <p>3 is -- it's -- it has more to do with the technique, and</p> <p>4 that technique is used on more than just F.D.A. samples.</p> <p>5 Q. Okay. All right. Did you meet with</p> <p>6 Mr. Massenburg, I take it, via phone prior to this</p> <p>7 deposition?</p> <p>8 A. Yes.</p> <p>9 Q. All right. And how long did you guys meet?</p> <p>10 A. It was probably over two phone calls that lasted</p> <p>11 total less than an hour.</p> <p>12 Q. Okay. What was generally the subject of those</p> <p>13 conversations?</p> <p>14 A. Just today's deposition, what -- what -- and</p> <p>15 about my -- you know -- what I'm prepared to testify about</p> <p>16 and whatnot.</p> <p>17 Q. Okay. What is your current rate?</p> <p>18 A. For doing analysis and stuff like this, and --</p> <p>19 and depositions and document review, and things like that,</p> <p>20 it's 350 bucks an hour.</p> <p>21 Q. Okay. And have you looked at or been shown</p> <p>22 Dr. Longo's report using the Colorado school of mines</p> <p>23 iodine method on the Chanel sample?</p> <p>24 A. No, I have not.</p> <p>25 Q. Okay. Were you -- before I mentioned it, were</p>	<p style="text-align: right;">Page 99</p> <p>1 you aware that it existed?</p> <p>2 A. I was not aware that that specific report</p> <p>3 existed.</p> <p>4 I did see at the talc meeting, the F.D.A.'s</p> <p>5 talc meeting last month, he briefly talked about the</p> <p>6 chrysotile with the iodine staining.</p> <p>7 Q. Okay. All right. Is that something you ever</p> <p>8 employed to identify chrysotile in talc?</p> <p>9 A. No.</p> <p>10 Q. All right. Okay. In this case -- and I just do</p> <p>11 not remember from the first deposition -- but in this</p> <p>12 case, are you retained in "Zimmerman"? Are you retained</p> <p>13 by anybody other than Chanel?</p> <p>14 A. No.</p> <p>15 Q. Okay. Are you still a -- serving in a</p> <p>16 testifying capacity -- testifying expert capacity for</p> <p>17 Johnson & Johnson in any cases, to your knowledge?</p> <p>18 A. I was retained by them for a whole bunch of</p> <p>19 cases sometime ago, and as they come up, I generally am</p> <p>20 dropped from the case.</p> <p>21 So I -- I likely am still -- you know,</p> <p>22 officially retained for some cases, yeah.</p> <p>23 Q. Do you know whether or not the "Zimmerman" case</p> <p>24 is one of those?</p> <p>25 A. I -- I don't. And I actually don't know whether</p>	<p style="text-align: right;">Page 100</p> <p>1 I am. I don't think I am. But I'm not -- I couldn't be</p> <p>2 100 percent sure about that.</p> <p>3 Q. Okay.</p> <p>4 MR. MASSENBURG: He was not a retained --</p> <p>5 MR. HYNES: He was not retained in the</p> <p>6 "Zimmerman" case on behalf of Johnson & Johnson which was</p> <p>7 established during the course of the first day of</p> <p>8 deposition in this case.</p> <p>9 MR. PANATIER: Okay.</p> <p>10 BY MR. PANATIER:</p> <p>11 Q. Sir, to the extent that J&J does retain you in</p> <p>12 cases, do they pay you a retainer? Let me ask you a</p> <p>13 different question.</p> <p>14 To the extent anybody retains you to be a</p> <p>15 testifying expert or retains you in litigation, is the</p> <p>16 retainer paid to AMA?</p> <p>17 A. They -- there has been in the past and in</p> <p>18 general, we're -- we're not really asking for one, asking</p> <p>19 for one up front, but in the past, in the past that has</p> <p>20 happened.</p> <p>21 Q. How long has it been since you at AMA were</p> <p>22 charging enough for a retainer?</p> <p>23 A. I have actually -- this is a guess on my part</p> <p>24 because all the billing stuff, I -- I just give my hours</p> <p>25 to our CFO and then he does it. It -- it's been years, I</p>	<p style="text-align: right;">Page 101</p> <p>1 believe, since we asked for a retainer. But he -- he -- I</p> <p>2 mean, he may have, but -- but so I don't really know the</p> <p>3 answer to -- to that.</p> <p>4 Q. Okay. But it's been years?</p> <p>5 A. I believe so, yeah.</p> <p>6 Q. Okay. Have you asked to look at Alan Segrave or</p> <p>7 Bureau Veritas's analysis of the J&J sample that was</p> <p>8 subject to the F.D.A. contract that you did?</p> <p>9 MR. HYNES: Asked and answered.</p> <p>10 THE DEPONENT: I have the report. I haven't</p> <p>11 looked at it yet, though.</p> <p>12 BY MR. PANATIER:</p> <p>13 Q. Oh, I'm sorry. I'm sorry. What I meant was,</p> <p>14 have you asked to look at the actual samples or his grid</p> <p>15 preparations?</p> <p>16 A. No, I have not.</p> <p>17 MR. HYNES: I just wanted to object to that that</p> <p>18 would be subject to the confidentiality provision from</p> <p>19 F.D.A. in the broadest sense, but again Mr. Saldivar</p> <p>20 answered it, so nevermind.</p> <p>21 BY MR. PANATIER:</p> <p>22 Q. Okay. Mr. Saldivar, to your knowledge, is Alan</p> <p>23 Segrave part of this F.D.A. contract that you executed</p> <p>24 over the last year?</p> <p>25 A. He's not part of the contract I'm on. If</p>
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<p style="text-align: right;">Page 102</p> <p>1 they -- if they -- he would have to be in some capacity</p> <p>2 contact -- contracted by them if they asked him to look at</p> <p>3 something so he would -- but he's not on the same contract</p> <p>4 that I'm on.</p> <p>5 Q. Yeah. Do you know whether or not F.D.A. has</p> <p>6 contracted with Alan Segrave to look at these samples?</p> <p>7 A. No, I don't.</p> <p>8 Q. Do you know whether or not Johnson & Johnson</p> <p>9 has?</p> <p>10 A. No -- I don't know specifically how he ended up</p> <p>11 with the sample whether it was via the F.D.A. asking him</p> <p>12 or Johnson & Johnson asking.</p> <p>13 Q. All right. So it looks to me, there's between</p> <p>14 sample 6A and for aliquot 6A and 6B of the Johnson &</p> <p>15 Johnson sample. It looks to me like there's six total</p> <p>16 chrysotile structures identified, two in 6A and four in</p> <p>17 6B. One of them it says unable to obtain the pattern.</p> <p>18 The rest it says positive for S-A-E-D.</p> <p>19 My question is this: As a total percentage</p> <p>20 of the chrysotile fibers you've looked at, can you give me</p> <p>21 some ballpark estimate as to how often you're unable to</p> <p>22 get the fraction pattern for chrysotile?</p> <p>23 A. Maybe 25 percent of the time.</p> <p>24 Q. Okay.</p> <p>25 A. Let's say, between 10 and 25 percent of the</p>	<p style="text-align: right;">Page 104</p> <p>1 Q. Yeah.</p> <p>2 A. Right.</p> <p>3 Q. Okay. Now, between your first deposition in</p> <p>4 this case and now setting aside the work that you have</p> <p>5 done for F.D.A., have you done any other work on Chanel</p> <p>6 samples or on source talc that would have been relevant</p> <p>7 to Chanel? Meaning either Italian, Guangxi Chinese, or</p> <p>8 Australian?</p> <p>9 A. No, we haven't.</p> <p>10 Q. All right. Have you been asked to look at -- I</p> <p>11 already asked you about Dr. Longo's recent iodine work</p> <p>12 that he did on some Chanel.</p> <p>13 Setting that aside, since June, have you</p> <p>14 looked at any of Dr. Longo's testing of Chanel product?</p> <p>15 A. No, I haven't.</p> <p>16 Q. All right. Okay. One second. I am just</p> <p>17 looking at my notes. Hold up.</p> <p>18 A. Okay.</p> <p>19 Q. Would you agree, sir, that non-detect as a</p> <p>20 scientific term simply means what it says?</p> <p>21 In other words, whatever you are looking</p> <p>22 for was not detected. It does not mean whatever you were</p> <p>23 looking for is not present; correct?</p> <p>24 A. That's correct.</p> <p>25 Q. All right. Have you reviewed any additional</p>
<p style="text-align: right;">Page 103</p> <p>1 time. In certain samples, it's much less of an issue.</p> <p>2 Some samples -- I mean, there's all kinds of reasons why</p> <p>3 you cannot get a defraction pattern.</p> <p>4 Q. Yeah.</p> <p>5 A. For instance, if you have multiple fibers or</p> <p>6 structures adjacent to each other and you start looking at</p> <p>7 the defraction pattern of each one, well, the defraction</p> <p>8 for chrysotile doesn't last for a very long time; like 45</p> <p>9 seconds to a minute. By the time you get to the last one,</p> <p>10 that pattern might be gone.</p> <p>11 Q. Is it the case that the -- the beam degrades</p> <p>12 the -- the chrysotile -- the crystal structure?</p> <p>13 A. There's water in -- in the system and the</p> <p>14 beam -- there's a beam of radiation, and it's hitting it,</p> <p>15 and it does degrade the system, yes.</p> <p>16 Q. Okay. But for your experiences between 10 and</p> <p>17 25 percent of the time, you're unable to get a fraction</p> <p>18 pattern meaning that between 75 and 90 percent of the</p> <p>19 time, you are. Fair?</p> <p>20 A. Yeah.</p> <p>21 Q. Okay. And, in fact, here you have six examples</p> <p>22 of this, where in five your lab got a pattern, and in one,</p> <p>23 it did not; right?</p> <p>24 A. Yes. That's what -- that's what it says, yeah.</p> <p>25 That's what that means.</p>	<p style="text-align: right;">Page 105</p> <p>1 materials? So setting aside the testing stuff I asked you</p> <p>2 about, have you reviewed any other materials that would</p> <p>3 influence your testimony in the "Zimmerman" case since</p> <p>4 June?</p> <p>5 A. No.</p> <p>6 MR. MASSENBURG: Let me just object to those</p> <p>7 lines of questions outside the scope of the Court's order</p> <p>8 for the purposes of this deposition which was limited very</p> <p>9 much in scope to Mr. Saldivar's testing on behalf of the</p> <p>10 F.D.A. and recent findings and whether or not that would</p> <p>11 affect his opinion as to Chanel or Chanel products needs</p> <p>12 to be tested.</p> <p>13 Of course, Chris, I'm giving you leeway.</p> <p>14 But I just wanted to make sure we don't go outside the</p> <p>15 scope of the Court's order.</p> <p>16 MR. PANATIER: Yeah. Again, I was just asking a</p> <p>17 you a follow-up question.</p> <p>18 BY MR. PANATIER:</p> <p>19 Q. With regard to that sort of final issue, sir,</p> <p>20 Chanel, I take it your opinions regarding Chanel would be</p> <p>21 simply based on your testing.</p> <p>22 In other words, if you tested Chanel and</p> <p>23 got non-detect, would your testimony be that I tested</p> <p>24 Chanel, and I got non-detect, or would it be something</p> <p>25 broader than that?</p>

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<p style="text-align: right;">Page 106</p> <p>1 MR. MASSENBURG: That I object to the vagueness</p> <p>2 of the question and improper scope and limitation.</p> <p>3 THE DEPONENT: That is essentially correct. I</p> <p>4 tested Chanel many, many, many, many times and repeatedly</p> <p>5 got non-detects.</p> <p>6 BY MR. PANATIER:</p> <p>7 Q. Okay. Now, are you in any way broadening that</p> <p>8 to a larger opinion?</p> <p>9 In other words, I'm very aware of your</p> <p>10 opinion that, okay, I tested a lot of -- a lot of Chanel</p> <p>11 samples, and I got -- and I got non-detect.</p> <p>12 Are you broadening that at all to opinions</p> <p>13 that you would give to a jury to say "I have an opinion</p> <p>14 that Chanel talc products do not contain asbestos"? Are</p> <p>15 you going to give that opinion?</p> <p>16 MR. MASSENBURG: Objection; vague,</p> <p>17 argumentative.</p> <p>18 THE DEPONENT: No. And I don't think I could</p> <p>19 give that opinion. I could only really give the opinion</p> <p>20 on the method of analysis I use and the samples I</p> <p>21 analyzed.</p> <p>22 BY MR. PANATIER:</p> <p>23 Q. Okay. Okay. Sir, those are all of the</p> <p>24 questions I have for you.</p> <p>25 I don't know if anybody else has any</p>	<p style="text-align: right;">Page 108</p> <p>1 products containing talc, when your lab finds non-detect</p> <p>2 of asbestos, you certainly aren't saying that there is</p> <p>3 asbestos in it, and you're not saying that it's possible</p> <p>4 that there's asbestos in it.</p> <p>5 You're saying you were unable to find it</p> <p>6 through your various methods of analysis; correct?</p> <p>7 A. That's correct.</p> <p>8 Q. And you have tested Chanel talc-based powders on</p> <p>9 multiple occasions, and to be clear, have you ever found a</p> <p>10 chrysotile or any amphiboles in any of those samples that</p> <p>11 you have tested through your rigorous methods?</p> <p>12 A. No.</p> <p>13 MR. MASSENBURG: That's all I have.</p> <p>14</p> <p>15 EXAMINATION</p> <p>16 BY MR. HYNES:</p> <p>17 Q. This is Kevin Hynes. Hi, Mr. Saldivar. How are</p> <p>18 you today?</p> <p>19 A. Hi, Kevin. I'm good. Thanks.</p> <p>20 Q. Good. Thanks for taking the time today under</p> <p>21 the unique and difficult circumstances in the country.</p> <p>22 As Chris mentioned, I hope you and all of</p> <p>23 your analysts stay safe and healthy during this crazy</p> <p>24 time.</p> <p>25 A. Yeah. Same to you guys.</p>
<p style="text-align: right;">Page 107</p> <p>1 follow-up questions, but thank you for your time, and I</p> <p>2 hope that you continue to stay safe in our pandemic.</p> <p>3 A. Same to all of you. It's a crazy time right</p> <p>4 now.</p> <p>5 MR. PANATIER: Anybody else?</p> <p>6 MR. MASSENBURG: Does anybody else have any</p> <p>7 questions?</p> <p>8 MR. HYNES: Yeah, this is Kevin Hynes on the</p> <p>9 phone. I just have a few minutes of questions.</p> <p>10 MR. MASSENBURG: Kevin, this is Chris</p> <p>11 Massenburg. I have just a couple of -- if you want to let</p> <p>12 me go first real quick.</p> <p>13 MR. HYNES: Yeah, sure, go ahead.</p> <p>14 And if you want to take a two-minute break</p> <p>15 or just plow on ahead?</p> <p>16 MR. MASSENBURG: I would charge through if it's</p> <p>17 okay with Andreas.</p> <p>18 MR. HYNES: Yeah, go for it.</p> <p>19</p> <p>20 EXAMINATION</p> <p>21 BY MR. MASSENBURG:</p> <p>22 Q. Mr. Saldivar, this is Chris Massenburg. I just</p> <p>23 wanted to make it clear, based on one of the questions</p> <p>24 that Mr. Panatier asked about a non-detect -- certainly</p> <p>25 finding of non-detect when analyzing talc samples or</p>	<p style="text-align: right;">Page 109</p> <p>1 Q. Thanks.</p> <p>2 And so I just have a few clarifying</p> <p>3 questions that -- just let me know if you are not able to</p> <p>4 answer them based on current agreement with your F.D.A.</p> <p>5 contract. Okay?</p> <p>6 A. Okay.</p> <p>7 Q. First topic is laboratory blanks. I think you</p> <p>8 said that your laboratory prepares certain blanks for a</p> <p>9 batch of samples; is that right?</p> <p>10 A. Correct. That's correct.</p> <p>11 Q. And what is the batch of samples? You said it</p> <p>12 can be about 20 different samples at a time; is that</p> <p>13 right?</p> <p>14 A. The minimum like number of material blanks</p> <p>15 you're going to do is at least one per -- per 20 samples.</p> <p>16 And once it -- and if it was a batch of -- of 40 samples,</p> <p>17 you would be doing more than -- more than that. And</p> <p>18 you're going to be doing a blank for each of your</p> <p>19 preparation sessions, too.</p> <p>20 So, for instance, if I decided I'm going to</p> <p>21 prep half of a batch of samples today, well, that --</p> <p>22 there's going to be a blank associated with them, too.</p> <p>23 So, but it -- it -- there's a size</p> <p>24 dependency on it, but there's also a time dependency on it</p> <p>25 or with it, as well.</p>

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<p>Page 110</p> <p>1 Q. Okay. And that batch, when you are saying the</p> <p>2 term "sample," is that the original sample before it's</p> <p>3 been split into triplicate aliquots, or would it be</p> <p>4 something --</p> <p>5 A. It's after. I'm counting each one of those</p> <p>6 aliquots as a sample.</p> <p>7 Q. Okay. And can you explain to me, you mentioned</p> <p>8 material blanks and I think filtering blanks.</p> <p>9 Can you just explain to me what is a</p> <p>10 material blank?</p> <p>11 A. Material blank is we take some known negative</p> <p>12 talc, and we use the Sigma-Aldrich talc, and that follows</p> <p>13 the other samples all the way through the preparation</p> <p>14 process, so it's weighed out just like any other talc</p> <p>15 sample we would have or talc-containing cosmetic.</p> <p>16 And it -- it follows the samples all the</p> <p>17 way through to grid preparation.</p> <p>18 Q. Okay. And then filtering blanks, what are</p> <p>19 those?</p> <p>20 A. Filtering blanks are when you are filtering your</p> <p>21 final solution on filters, you are running through --</p> <p>22 in -- in your filtration assembly, you are running through</p> <p>23 just plain water through them. And you're looking --</p> <p>24 because you want to make sure that your filtration</p> <p>25 assembly is, in fact, clean.</p>	<p>Page 112</p> <p>1 But -- this is just within our manner -- we're talking</p> <p>2 about the realm of not just talc analysis, all of my</p> <p>3 analysis.</p> <p>4 We have for -- for -- for bulk samples,</p> <p>5 we have a lot of material blanks, and there is that</p> <p>6 possibility with bulk T.E.M. analysis of material blank</p> <p>7 not being prepared at the same time on the same day.</p> <p>8 It's gone through all of the same steps,</p> <p>9 but you had a huge -- if you had a set of a hundred</p> <p>10 samples, you may not be finishing all of the preparation</p> <p>11 on one single day. You wouldn't be.</p> <p>12 And so blanks are generally prepared at the</p> <p>13 end.</p> <p>14 So it's never going to leave the side, but</p> <p>15 it's going to be side by side with the rest -- with the</p> <p>16 sample the whole time, but could be that the blank is --</p> <p>17 is -- gets its acid treatment on a different day than the</p> <p>18 first sample in the batch.</p> <p>19 Q. Okay. And is that the same for the analysis</p> <p>20 of blanks that are -- blanks essentially analyzed on</p> <p>21 different days than the samples from within the batch?</p> <p>22 A. That's -- that's absolutely -- and that's</p> <p>23 especially when dealing with talc analysis, the analysis</p> <p>24 takes a long time, and you're doing the analysis over</p> <p>25 multiple days, and the last thing that you are typically</p>
<p>Page 111</p> <p>1 And then that follows the rest of the</p> <p>2 filters through every -- every other step, and it's a</p> <p>3 check on your tools that you used in the hood. It's your</p> <p>4 check on your carbon coder, as well.</p> <p>5 Q. And you mentioned that for this -- each batch,</p> <p>6 there may be -- there are material blanks and there are</p> <p>7 filtering blanks; is that right?</p> <p>8 A. That's correct.</p> <p>9 Q. Okay. There may not be blanks specifically</p> <p>10 associated with the specific sample within that batch; is</p> <p>11 that correct?</p> <p>12 A. That's correct.</p> <p>13 Q. Okay. Is it possible that blanks may be</p> <p>14 prepared on a different day than the specific sample that</p> <p>15 is within a batch?</p> <p>16 A. There's -- there's -- generally at least one</p> <p>17 blank that will have followed that sample the whole way,</p> <p>18 and it will have been prepared at the same time as that</p> <p>19 sample.</p> <p>20 Q. Is that always --</p> <p>21 A. That would be -- that would be the filter blank</p> <p>22 is -- is definitely or the material blank associated with</p> <p>23 the batch, there is a possibility that it could be</p> <p>24 prepared on -- on another day.</p> <p>25 In general, it's -- it's -- it's not.</p>	<p>Page 113</p> <p>1 analyzing is your -- is your blank sample.</p> <p>2 Q. And thank you. First prior to the D58 sample,</p> <p>3 it's possible that those may have been prepared on</p> <p>4 different days than the -- than the blanks may have been</p> <p>5 prepared on the different days than the aliquots from D58?</p> <p>6 A. The material blank, the filter blank is going to</p> <p>7 be on the same day --</p> <p>8 Q. Okay. But the material blank --</p> <p>9 (Speaking simultaneously.)</p> <p>10 A. It's possible. It's possible --</p> <p>11 Q. (Indiscernible.)</p> <p>12 (Speaking simultaneously.)</p> <p>13 A. Yes, it's possible. Yeah.</p> <p>14 Q. Okay. And would that information be contained</p> <p>15 in the report that was disclosed by the F.D.A.?</p> <p>16 A. Perhaps. I'm -- I'm -- I'm not sure. I'm</p> <p>17 not -- I'm not sure about that.</p> <p>18 Q. Where is that information typically contained in</p> <p>19 your report --</p> <p>20 A. What -- (Speaking simultaneously.)</p> <p>21 What you would -- what you would see is you</p> <p>22 are going to look at the weight sheet, and you're going to</p> <p>23 look at the -- at the filtration sheet, and there may be a</p> <p>24 point where it has -- it may have a line that says, it has</p> <p>25 a date that is -- or -- that is, you know, these samples</p>

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<p style="text-align: right;">Page 114</p> <p>1 above here were prepared on this day, and below -- below</p> <p>2 this line, they're prepared on this date or something like</p> <p>3 that. Or it might have it next to the sample.</p> <p>4 Q. Okay. So if I'm looking at a page of the</p> <p>5 report, the gravimetric reduction and filtration bench</p> <p>6 sheet and modified ELAP 198.4, is that where I would go</p> <p>7 into to get that information?</p> <p>8 A. Yeah.</p> <p>9 Q. Okay.</p> <p>10 A. And there is also the sheet that would have the</p> <p>11 filtration announced that's going to have the dates on it,</p> <p>12 too, so.</p> <p>13 Q. Right. So as I'm looking at that sheet, and for</p> <p>14 the record, I think that's page 37 of my version of what</p> <p>15 was produced by the F.D.A., it's 55 total pages.</p> <p>16 I see sort of in the right column, there</p> <p>17 are different dates written in hand notation, and then if</p> <p>18 you look at the top right, there's an entry for filtered</p> <p>19 by present things redacted off numbered, and then if you</p> <p>20 look at there bar 9CA03.45, and then the date, and it says</p> <p>21 "see margin."</p> <p>22 So my question, I guess, Mr. Saldivar, is I</p> <p>23 would go to the margin to see what date the sample and all</p> <p>24 these reports were prepared for this particular batch; is</p> <p>25 that right?</p>	<p style="text-align: right;">Page 116</p> <p>1 I think that's what you suggested, but on</p> <p>2 page 26 of the 55-page report, there's a three-line entry,</p> <p>3 and I'll just read it out for the record, September 30th,</p> <p>4 2019, by -- it was redacted a person's name, quietly</p> <p>5 reflected the analyzed fourth aliquot; for example,</p> <p>6 308006-6/B58, this was added as 3080066C and an entry</p> <p>7 October 1st, 2019 by the name is redacted.</p> <p>8 We required -- requested that to cancel</p> <p>9 the request to analyze 3080066C preparation was mostly</p> <p>10 complete by the time we received the cancellation notice,</p> <p>11 and that no analysis was performed.</p> <p>12 So, Mr. Saldivar -- so the F.D.A. was your</p> <p>13 client for this project; correct?</p> <p>14 A. Correct.</p> <p>15 Q. And so to suggest that on September 30th, the</p> <p>16 F.D.A. requested that you analyze this for aliquots from</p> <p>17 the D58 sample; is that correct?</p> <p>18 A. That's correct.</p> <p>19 Q. Okay. And then the next day after you had</p> <p>20 mostly concluded preparation of that fourth aliquot that</p> <p>21 they requested that you cancel the analysis of that fourth</p> <p>22 aliquot; is that correct?</p> <p>23 A. Yes.</p> <p>24 Q. And I think you said this, but to the extent you</p> <p>25 had conversations with the F.D.A. regarding the reasons</p>
<p style="text-align: right;">Page 115</p> <p>1 A. Yes.</p> <p>2 Q. Okay. So if I look at the three aliquots from</p> <p>3 sample D58, which were your laboratory 308006-6-6A, dash</p> <p>4 6B, to the right of that I have -- it's a -- in the column</p> <p>5 of August 30th, 2019.</p> <p>6 So Mr. Saldivar, that would suggest that</p> <p>7 those three aliquots were prepared on August 30th, 2019;</p> <p>8 is that right?</p> <p>9 A. That's correct, yes.</p> <p>10 Q. Okay. And then if I scroll two pages down and</p> <p>11 now I'm on page 39 of 55, and saying page 3 of 3 of this</p> <p>12 gravimetric reduction of filtration bench sheet and</p> <p>13 modified ELAP 198.4, I have entries for three blanks that</p> <p>14 are marked NB19-645 and NB19-646 and NB19-647.</p> <p>15 Mr. Saldivar, those are the laboratory</p> <p>16 blanks that were prepared with those batches; correct?</p> <p>17 A. Correct.</p> <p>18 Q. Okay. And that -- if -- on the right side here,</p> <p>19 I have a date of September 5th, 2019.</p> <p>20 So I guess, Mr. Saldivar, that would</p> <p>21 suggest that these three blanks were prepared on</p> <p>22 September 5th, 2019; is that correct?</p> <p>23 A. That's correct.</p> <p>24 Q. Okay. I have another question that came up, and</p> <p>25 just let me -- I can't get into it.</p>	<p style="text-align: right;">Page 117</p> <p>1 for the cancellations of those analysis, you are not going</p> <p>2 to discuss that here with us today; is that right?</p> <p>3 A. That's correct.</p> <p>4 Q. And that's because you believe that information</p> <p>5 is subject to confidentiality provisions with your</p> <p>6 contract with the F.D.A.?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. I'll move off of that.</p> <p>9 Another thing that was mentioned is we were</p> <p>10 discussing some of the findings in sample 308006-6B.</p> <p>11 And so this is a -- this is a third aliquot</p> <p>12 that your laboratory analyzed from this D58 sample, and</p> <p>13 the count sheet has structures identified.</p> <p>14 There's a structure 1-A, structure 1-B,</p> <p>15 structure 1-C, and a structure 2.</p> <p>16 Do you recall discussing these particular</p> <p>17 entries with Mr. Panatier earlier today?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And I think Mr. Panatier asked you about</p> <p>20 the -- the classification of structures 1, 2, and 3, and</p> <p>21 you said that the final report sufficed those three</p> <p>22 structures as fibers, and I see elsewhere there is also</p> <p>23 some discussion of that as a cluster.</p> <p>24 To the extent there's any communication</p> <p>25 with the F.D.A. regarding the classification of that</p>

<p style="text-align: right;">Page 118</p> <p>1 particular cluster or set of three fibers, is that</p> <p>2 something that you are prepared to discuss at today's</p> <p>3 deposition?</p> <p>4 A. No, I'm not.</p> <p>5 Q. Okay. And is that because you believe that is</p> <p>6 covered by your confidentiality agreement with the F.D.A.?</p> <p>7 A. Yes, and they told me that.</p> <p>8 Q. Okay. And hypothetically if there are four</p> <p>9 total structures identified on a count sheet, those four</p> <p>10 structures would be at your method of quantification;</p> <p>11 correct?</p> <p>12 A. That's correct.</p> <p>13 Q. Okay. But if there are two structures</p> <p>14 identified on the count sheet, those two structures would</p> <p>15 be below your methods whether it's quantification; is that</p> <p>16 correct?</p> <p>17 A. Yes. Yes.</p> <p>18 Q. Okay.</p> <p>19 A. And we would go -- reported that as less than</p> <p>20 the limit of quantification.</p> <p>21 Q. Okay. Is the classification of particular</p> <p>22 particles may affect whether something is identified,</p> <p>23 if something may be above or below the limit of</p> <p>24 quantification in an analysis; correct?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 120</p> <p>1 results in terms of the asbestos contaminations of talcum</p> <p>2 powder products?</p> <p>3 A. It -- it's the way I -- I would like to do it,</p> <p>4 because you can't really manipulate that number.</p> <p>5 Q. Right. Can you give me an example of how you</p> <p>6 can manipulate a fiber per gram number?</p> <p>7 A. Yes. Let's say, for instance, the room you're</p> <p>8 sitting in was a grid opening and -- and we're counting</p> <p>9 2x4s in that grid opening in that room.</p> <p>10 So there's one 2x4 sitting in there; right,</p> <p>11 and we count 20 rooms which is equivalent to 20-grid</p> <p>12 openings, and so that's the one -- the only thing we saw</p> <p>13 is that one 2x4.</p> <p>14 So -- and if we then from that wanted to</p> <p>15 figure out that, you know, how many 2x4s are in the entire</p> <p>16 Empire State Building, because there's a ton of rooms in</p> <p>17 there, and we have only looked at a few, the proper way to</p> <p>18 do it would be like, okay, well, how many rooms did we</p> <p>19 look at? How many 2x4s did we find? And then figure out</p> <p>20 that calculation. That would be the proper way of doing</p> <p>21 it.</p> <p>22 You can manipulate that by saying, Well,</p> <p>23 that 2x4 is -- it has this certain mass to it. And how</p> <p>24 many of the smallest possible pieces of wood, let's say</p> <p>25 the smallest possible thing you can find are toothpicks,</p>
<p style="text-align: right;">Page 119</p> <p>1 Q. Were there some questions from Mr. Panatier</p> <p>2 regarding reporting out of results in terms of fibers per</p> <p>3 gram as opposed to a percent weight? Do you recall that</p> <p>4 questioning?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And those -- those figures, the fibers</p> <p>7 per gram figure that Mr. Panatier and you went through</p> <p>8 doing that calculation, that would be affected, the</p> <p>9 numbers would be different if the total of number of</p> <p>10 structures were reduced in the analysis; correct?</p> <p>11 A. It should be, yes. And it would be if -- it</p> <p>12 would be, and it should be by anybody doing it properly.</p> <p>13 Q. Okay. Right. And so as you see the two</p> <p>14 structures, you're going to have half of the fiber per</p> <p>15 gram reported as you were -- as you see four structures?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And you -- your laboratory typically does</p> <p>18 not report results in terms of fiber per gram; is that</p> <p>19 correct?</p> <p>20 A. That's correct.</p> <p>21 Q. Okay. And why is that?</p> <p>22 A. Because you can manipulate that number to be</p> <p>23 almost anything you want.</p> <p>24 Q. Right. And from your perspective, it's percent</p> <p>25 weight basis the more appropriate figure to report of</p>	<p style="text-align: right;">Page 121</p> <p>1 and you calculate out that I can fit 100,000 toothpicks</p> <p>2 into that one 2x4.</p> <p>3 So instead of multiplying the 2x4 and</p> <p>4 extrapolate that number, you've now changed it to be</p> <p>5 like, well, in that particular mass of that 2x4, I could</p> <p>6 theoretically have 100,000 toothpicks, and I'm going to</p> <p>7 expand that number, and come up with a -- with that number</p> <p>8 per -- per room.</p> <p>9 So you can take -- if I have a big</p> <p>10 structure, a big amphibole structure, something like that,</p> <p>11 and I figure out that -- that I could have fit in a</p> <p>12 thousand of the smallest possible countable amphibole</p> <p>13 structures of that same type, proper way to calculate</p> <p>14 out the fibers per gram would be to take out that one</p> <p>15 structure and multiply out based on that.</p> <p>16 Because I found that one improper way and</p> <p>17 the way you can manipulate that is to say, Well, the mass</p> <p>18 of that structure can translate to this many possible</p> <p>19 fibers. And if you take that number and then extrapolate</p> <p>20 that, that's -- that's not a proper way to do it.</p> <p>21 Q. Okay. So to the effect that you can buy us a</p> <p>22 total number for fiber per gram relatively high easily if</p> <p>23 you are using a fiber per gram reporting of it?</p> <p>24 A. If -- if you are -- if you did it in the way I</p> <p>25 described to you.</p>

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<p style="text-align: right;">Page 122</p> <p>1 Q. Uh-huh. Is that way in which the 8 million 2 fibers per gram analytical sensitivity was -- was 3 calculated based on Mr. Panatier's math earlier today? 4 A. No. The way he did it was the proper way. 5 Q. Now, Mr. Saldivar, you -- this contract from 6 2019 with the F.D.A., you tested other samples of 7 Johnson's baby powder and do not detect any asbestos in 8 those other samples that are tested under 2019 contract; 9 correct? 10 A. I actually don't know that. 11 Q. To the extent -- 12 A. I don't -- I don't know the identity of all of 13 those samples. We -- we find out the identity of D58 14 after the fact, but I -- I -- I was -- actually, I was 15 actually not aware that other samples in that batch were 16 Johnson & Johnson. 17 Q. Okay. To the extent that the F.D.A. issued a 18 press release that there was at least one other sample, 19 and that that batch was Johnson & Johnson's baby powder 20 and it was non-detect, and it was a non-detect baby powder 21 was found as part of that testing? 22 A. Yes. If you say so, but there was another one 23 in there, and it was from that batch, and it was not a 24 detect that would be -- that would be from that contract, 25 yeah.</p>	<p style="text-align: right;">Page 124</p> <p>1 one second. Sorry, Kevin. 2 I'm just going to place an objection to 3 this line of questioning, because it wasn't subject to the 4 judge's ruling, and I was not prepared to go into it. I 5 it is something I would absolutely want to question 6 Mr. Saldivar about. 7 Feel free to continue asking, but we may 8 ask for a -- another session to depose Mr. Saldivar on 9 that J&J testing that he did in 2018 on the various source 10 talcs, but go ahead. 11 THE DEPONENT: Also just to be clear. It's not 12 my intention with regards to this case to testify 13 regarding anything other than the work I've done for 14 Chanel. 15 MR. MASSENBURG: Right. 16 MR. HYNES: Okay. Thanks so much, Mr. Saldivar. 17 That's all of the questions I have. 18 MR. MASSENBURG: Okay. 19 MR. PANATIER: This is Panatier. I just have 20 one little follow-up, Mr. Saldivar. 21 22 FURTHER EXAMINATION 23 BY MR. PANATIER: 24 Q. One of the issues that you and I discussed and 25 then we will -- just discussed with Mr. Hynes had to do</p>
<p style="text-align: right;">Page 123</p> <p>1 Q. Okay. And then your prior contract in 2009 and 2 2010 with the F.D.A. included testing of those samples of 3 Johnson & Johnson's baby powder in which you did not 4 detect any asbestos; correct? 5 A. Correct. 6 Q. Okay. And you've also issued a report dated 7 March 20th, 2018 involving the testing of certain samples 8 of Italian talc or that were provided to you by R.J. Lee 9 Group that were tested using the same modified New York 10 ELAP method that we've been discussing here, and your 11 laboratory reported no asbestos in any of those more than 12 a dozen Italian talc core samples tested; is that correct? 13 A. I believe so, yes. 14 Q. And then you've also issued a report dated 15 March 30th, 2018, which involved the testing of certain 16 samples of Italian talc core and Vermont talc core 17 organized deposits that were provided to you by the -- 18 Dr. (Inaudible) also tested using that modified New York 19 ELAP method in your laboratory reported no asbestos in any 20 of those for more than a dozen samples from the Vermont 21 and Italy tested; correct? 22 A. I believe that's correct, yes. 23 Q. Okay. 24 A. In one of those batches that might have -- 25 MR. MASSENBURG: Hold on one second. Hold on</p>	<p style="text-align: right;">Page 125</p> <p>1 with the fact that bundles -- your expectations would be 2 that any bundles of chrysotile, you would expect to break 3 up to some extent during preparation; right? 4 A. That's the goal, yes. 5 Q. Okay. And, sir, are you aware that chrysotile 6 bundles, to the extent that they're inhaled into the 7 lungs, they break up into their constituent fibrils over 8 time? 9 A. Sure. 10 Q. Have you -- 11 A. I have -- I have seen a paper presented on that, 12 yes. I have seen multiple papers presented at conferences 13 that say exactly that. 14 MR. MASSENBURG: Let me just object that it's 15 outside the scope. 16 MR. PANATIER: All right. 17 MR. MASSENBURG: Sorry, Chris. This is 18 Massenburg. I raise no offense, of course, when I say 19 that this is just outside the scope of expertise of 20 Mr. Saldivar. 21 THE DEPONENT: Yeah, it certainly -- 22 certainly -- this is certainly not in my realm of 23 expertise. I can only go on, you know, what I have seen 24 presented so. 25 BY MR. PANATIER:</p>

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<p style="text-align: right;">Page 126</p> <p>1 Q. Sure. And my purpose of asking that is,</p> <p>2 because if you're going to -- if someone is going to</p> <p>3 suggest that in looking at the numbers as they are found</p> <p>4 after the preparation where bundles have been broken up is</p> <p>5 somehow misleading us to what is actually there, well,</p> <p>6 then I'm just -- I'm basically asking you if you have seen</p> <p>7 whether or not there is a correlation to fiber bundle</p> <p>8 breakup when those bundles enter the human body.</p> <p>9 You said you have seen papers presented on</p> <p>10 that, but it's not your expertise; is that correct?</p> <p>11 A. Correct.</p> <p>12 Q. Okay. All right.</p> <p>13 MR. PANATIER: Those are all of the questions I</p> <p>14 have.</p> <p>15 MR. HYNES: I have one quick thing that I have</p> <p>16 forgotten. I am just going over my notes here. Just give</p> <p>17 me one second. One second.</p> <p>18</p> <p>19 FURTHER EXAMINATION</p> <p>20 BY MR. HYNES:</p> <p>21 Q. All right. Mr. Saldivar, I forgot to ask you</p> <p>22 one thing here. So let's see. So we were discussing the</p> <p>23 four aliquots that were prepared and the testing of that</p> <p>24 aliquot canceled.</p> <p>25 Do you recall that?</p>	<p style="text-align: right;">Page 128</p> <p>1 what's in the report and in there and that --</p> <p>2 We did issue that particular statement and</p> <p>3 it's in our report, and that's about as far as I can go</p> <p>4 with that.</p> <p>5 BY MR. HYNES:</p> <p>6 Q. Okay. Okay. To the extent that you may have</p> <p>7 desired to do additional testing or additional validation</p> <p>8 on that sample and the F.D.A did not permit you to do,</p> <p>9 that's not something that you are prepared to testify</p> <p>10 about today; is that correct?</p> <p>11 A. Correct.</p> <p>12 Q. Okay. That's it. Thanks.</p> <p>13 MR. PANATIER: Okay. So that leaves me to have</p> <p>14 to ask a couple of follow-ups from that issue.</p> <p>15</p> <p>16 FURTHER EXAMINATION</p> <p>17 BY MR. PANATIER:</p> <p>18 Q. Sir, those questions were phrased in terms of if</p> <p>19 you wanted to do additional validation, it -- it -- you</p> <p>20 were asked to prepare the 6C aliquot and then asked not to</p> <p>21 test it. You did not -- the AMA did not go to the F.D.A.</p> <p>22 and say, "We want to do another aliquot," and the F.D.A.</p> <p>23 said "No," correct?</p> <p>24 A. I can't answer that.</p> <p>25 Q. Okay. You were asked whether or not your</p>
<p style="text-align: right;">Page 127</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And so if you find trace levels of</p> <p>3 chrysotile in a particular style -- talc sample, is it</p> <p>4 your typical practice to validate those findings with</p> <p>5 additional testing?</p> <p>6 A. In the past I have done that.</p> <p>7 Q. Okay. But that was not done with sample D58;</p> <p>8 correct?</p> <p>9 MR. MASSENBURG: I will just again object to</p> <p>10 confidentiality that we have discussed multiple times.</p> <p>11 I just want to be very careful that the</p> <p>12 scope of the deposition was limited by the Court, not by</p> <p>13 me. Mr. Saldivar has received his own communications from</p> <p>14 F.D.A. as to what the confidentiality is.</p> <p>15 I'm sure he would love to be able to talk</p> <p>16 about this in more detail. I just want to be very careful</p> <p>17 for his sake unrelated to the "Zimmerman" case, that he</p> <p>18 does not breach that.</p> <p>19 If he is comfortable answering the</p> <p>20 question, I don't have a problem with him answering it. I</p> <p>21 just -- to me, it seemed to be touching on that issue, so</p> <p>22 I would object on that note.</p> <p>23 MR. HYNES: Yeah, if he can't answer due to your</p> <p>24 confidentiality. Fine. Go ahead.</p> <p>25 THE DEPONENT: Well, you read to me exactly</p>	<p style="text-align: right;">Page 129</p> <p>1 results were validated. It's kind of a vague question.</p> <p>2 Here's my question: For the results you</p> <p>3 turned over to the U.S.F.D.A., as a result of this</p> <p>4 contract of some 50 samples, whether or not those were --</p> <p>5 those results reported in non-detect or a positive finding</p> <p>6 of asbestos, does AMA stand behind all of its results?</p> <p>7 A. Yes.</p> <p>8 MR. MASSENBURG: Form.</p> <p>9 BY MR. PANATIER:</p> <p>10 Q. Okay. And did AMA follow all of the appropriate</p> <p>11 separation and analytical methodologies that it told the</p> <p>12 F.D.A. it would?</p> <p>13 A. We did, and we also followed all instructions</p> <p>14 from the F.D.A.</p> <p>15 Q. Okay. All right. In that respect, sir, did you</p> <p>16 turn over valid results to the F.D.A.?</p> <p>17 A. We did.</p> <p>18 Q. Okay. All right. Those all of the questions I</p> <p>19 have.</p> <p>20 Are we off?</p> <p>21 MR. MASSENBURG: I just want to make a statement</p> <p>22 on the record. This is Chris Massenburg.</p> <p>23 Mr. Saldivar, thank you so much for taking</p> <p>24 time, and keeping this as scheduled as previously.</p> <p>25 I do believe that some of the questions</p>

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<p style="text-align: right;">Page 130</p> <p>1 that were asked at least slightly outside the scope of</p> <p>2 the Court's ruling, but I gave deference to counsel and</p> <p>3 subject to those objections that I did make on the record,</p> <p>4 in order to prevent and avoid Mr. Saldivar from having to</p> <p>5 go through a third deposition in the same case. I trust</p> <p>6 Mr. Saldivar's answered to everything that he was able to</p> <p>7 answer, everything he was asked. And those things he was</p> <p>8 not able to answer were subject to, for the most part, at</p> <p>9 least -- subject to F.D.A. confidentiality provisions that</p> <p>10 are outside of his personal choice or professional choice,</p> <p>11 and if it is something that F.D.A. has imposed upon him.</p> <p>12 He has agreed to send me after the</p> <p>13 deposition the contact information from the F.D.A. contact</p> <p>14 he had been dealing with, and I will forward that to</p> <p>15 counsel who is on the phone so they have that information.</p> <p>16 But I do want to make sure I'm clear for</p> <p>17 the record that Mr. Saldivar has appeared here voluntarily</p> <p>18 at our request pursuant to the Court overruling our</p> <p>19 objections to the deposition taking place. He had</p> <p>20 answered all of the questions asked that he was able to.</p> <p>21 I wanted to make sure there was no</p> <p>22 disagreement with that by any counsel on the phone because</p> <p>23 I do not want Mr. Saldivar to have to go through a third</p> <p>24 deposition if there's some way to avoid that by addressing</p> <p>25 those issues now. I would like to do that now before we</p>	<p style="text-align: right;">Page 132</p> <p>1 can forward it to us, and we will pay it.</p> <p>2 THE DEPONENT: Okay. That works.</p> <p>3 MR. PANATIER: Thank you.</p> <p>4 THE DEPONENT: The invoice will come from</p> <p>5 Charles Ryan is who you will see the invoice come from.</p> <p>6 MR. PANATIER: Okay. Sounds good. All right.</p> <p>7 I think we're done, guys.</p> <p>8 THE DEPONENT: Thank you.</p> <p>9 MR. MASSENBURG: You do have the right to read</p> <p>10 and sign the deposition if you want to. Some experts</p> <p>11 choose to waive that.</p> <p>12 The deposition was taken by agreement</p> <p>13 remotely with all parties in their separate rooms and so</p> <p>14 all by phone. I leave that choice to you.</p> <p>15 Do you want to read and sign?</p> <p>16 THE DEPONENT: I -- I found it beneficial to</p> <p>17 read and sign. And a lot of times just because of certain</p> <p>18 scientific terms some people have never heard before, so</p> <p>19 if it's -- it's good to read it.</p> <p>20 MR. MASSENBURG: And, Irene, if you have any</p> <p>21 questions about any of the verbiage used by Mr. Panatier</p> <p>22 or I, Kevin or anyone else on the phone, we would be happy</p> <p>23 to answer those questions for you.</p> <p>24 DEPOSITION OFFICER: Great. Thank you.</p> <p>25 MR. MASSENBURG: Thanks, everybody.</p>
<p style="text-align: right;">Page 131</p> <p>1 hang up.</p> <p>2 MR. PANATIER: I'm sorry. What specific issue</p> <p>3 do you think should be addressed now?</p> <p>4 MR. MASSENBURG: If you or anyone else on the</p> <p>5 phone believes that there is cause for a third deposition</p> <p>6 of Mr. Saldivar to take place in the "Zimmerman" case.</p> <p>7 MR. PANATIER: At this time, I do not. It's</p> <p>8 subject to whatever the F.D.A. says. When we talk to the</p> <p>9 F.D.A., they, yes, he may talk about x, y or z, we may ask</p> <p>10 for a third deposition. We may not or we may. That's</p> <p>11 totally up to the F.D.A.</p> <p>12 MR. MASSENBURG: And pursuant to the California</p> <p>13 rules and our prior discussions, you guys are paying for</p> <p>14 Mr. Saldivar's time today?</p> <p>15 MR. PANATIER: We will, yes. And, Mr. Saldivar,</p> <p>16 how many hours did we use? We used about three hours,</p> <p>17 3-1/2?</p> <p>18 THE DEPONENT: We -- three and a half. We</p> <p>19 started at 11:00. It's 2:30 now. So, well, it's Eastern</p> <p>20 time so.</p> <p>21 MR. PANATIER: And how much is that per hour?</p> <p>22 THE DEPONENT: 350.</p> <p>23 MR. PANATIER: Okay. We will -- we will -- we</p> <p>24 will get -- you know, it would be good if you can send an</p> <p>25 invoice to Mr. Massenburg so we have a record, and then he</p>	<p style="text-align: right;">Page 133</p> <p>1 THE DEPONENT: Okay. See you guys.</p> <p>2 (whereupon, proceedings were</p> <p>3 concluded at 11:33 a.m. PST.)</p> <p>4 -o0o-</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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<p>1 State of California)) 2 County of Los Angeles) 3 4 5 6 Deponent's Declaration 7 8 9 I certify under penalty of perjury that the 10 foregoing is true and correct. 11 12 13 14 15 Executed at _____ on _____. 16 17 18 19 _____ (Signature of Deponent) 20 21 22 23 24 25</p>	<p>1 State of California))ss 2 County of Los Angeles) 3 4 I, IRENE NAKAMURA, Certified Shorthand Reporter, 5 Certificate No. 9478, for the State of California, hereby 6 certify: 7 The foregoing proceedings were taken before me at 8 the time and place therein set forth, at which time the 9 deponent was placed under oath by me; 10 The testimony of the deponent and all objections 11 made at the time of the examination were recorded 12 stenographically by me and were thereafter transcribed; 13 The foregoing transcript is a true and correct 14 transcript of my shorthand notes so taken; 15 I further certify that I am neither counsel for 16 nor related to any party to said action, nor in any way 17 interested in the outcome thereof. 18 In witness whereof, I have hereunto subscribed my 19 name this 20th day of March, 2020. 20 21 22 _____ IRENE NAKAMURA, RPR, CLR 23 Certified Shorthand Reporter in and for the State of California 24 License No. 9478, Nevada No. 893 Hawaii No. 496, Washington No. 3177 25 iDepo Reporters 323-393-3768 or 1-888-99-iDEPO</p>
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<p>1 State of California)) 2 County of Los Angeles) 3 4 I, Irene Nakamura, Certified Stenographic 5 Reporter, Certificate No. 9478, for the State of 6 California, hereby certify: 7 I am the deposition officer who 8 Stenographically recorded the foregoing deposition; 9 Written Notice Pursuant to Code of Civil 10 Procedure, Section 2025.520, having been sent to the 11 deponent, the deponent: 12 () IN PERSON MADE THE CHANGES SET FORTH IN THE FOREGOING TRANSCRIPT; 13 14 () APPROVED THE TRANSCRIPT BY SIGNING IT; 15 16 () FAILED OR REFUSED TO SIGN THE TRANSCRIPT BY NOT SIGNING IT; 17 () BY SIGNED LETTER ATTACHED HERETO, MADE THE CHANGES SET FORTH THEREIN 18 AND APPROVED, OR REFUSED TO APPROVE, THE TRANSCRIPT; 19 20 () FAILED TO CONTACT THE DEPOSITION OFFICER WITHIN THE ALLOTTED TIME 21 PERIOD. 22 DATED: _____ 23 24 _____ (DEPOSITION OFFICER) 25</p>	<p>1 ERRATA LIST 2 3 Page/Line From To 4 _____ 5 _____ 6 _____ 7 _____ 8 _____ 9 _____ 10 _____ 11 _____ 12 _____ 13 _____ 14 _____ 15 _____ 16 _____ 17 _____ 18 _____ 19 _____ 20 _____ 21 _____ 22 _____ 23 _____ 24 _____ 25 _____</p>

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